

No. 13533

Supreme Court of Illinois

Ball

vs.

Leonard.

STATE OF ILLINOIS,

SUPREME COURT,

Third Grand Division.

No.

No.

305.

Leonard

12533

STATE OF ILLINOIS, SUPREME COURT,
THIRD GRAND DIVISION.
APRIL TERM, 1860.

DANIEL H. BALL
vs.
MARCELLUS G. LEONARD, } 305. *Appeal from Boone.*

ABSTRACT OF THE RECORD.

Page of Pec.
2, 33 THIS was a Bill in Chancery, filed by Ball against Leonard, March 16th, 1859, to enjoin the collection of a batch of judgment notes held by Leonard against Ball, stating in substance: That from some time in 1856 to February, 1859, Ball had been borrowing money, from time to time, of Leonard, and making payments from time to time to him, and from time to time renewing his notes, and giving additional notes for interest and for balances. That the mode of doing business was by making short rests of from 30 to 90 days in computing interest, and by computing part of the time at 3 per ct. a month, and part of the time at 5 per ct. a month, so that the amount upon the face of the notes was about \$1,700, when in truth, if the interest were computed at 10 per ct. per annum, and Ball's payments allowed, the true balance would not exceed \$600, which sum he offers to pay, and asks to enjoin the excess. Bill sets out particularly, that Ball is unable to state accurately the details of this business, but that Leonard has in his possession books, papers, and memoranda which will show all the details, and asks for a full and particular answer from Leonard under oath, and for the production of his books and vouchers.

45 The summons was issued and served March 16, 1859, returnable 2d Monday of September then next, and an injunction *pendente lite* granted.

49 There is no answer or replication in the record, but on page 49 of the record is a paper marked filed Sept. 24, 1859, saying, it is agreed "that the foregoing statement and account, when the same is duly sworn to by Leonard shall be" taken as a full answer as to all transactions as to money matters between the parties from 18th of May, 1857, to date, and all other material matters in the bill shall be taken as denied as fully as if a formal

Page of Rec. answer were put in by the defendant." This paper is without date, and purports to be signed,

"S. A. HURLBUT, *Complainant's Sol'r.*

"W. THOMPSON, *Defendant's Sol'r.*"

There is no "foregoing" statement preceding this paper such as is referred to therein.

51, 52 Immediately following this paper, (pages 51 and 52,) is a statement of account between Ball and Leonard, running from May 18, 1857, to June 16, 1858, and striking a balance of that date against Ball of \$1,004.93, with an affidavit of Leonard thereto attached, sworn to on the 3d of Sept., 1859, "that the foregoing account is a just and faithful statement of the dealings between deponent and complainant as to the money transactions in the bill," and of all moneys paid by complainant to deponent and all moneys advanced by deponent to complainant, without any calculation of interest. And this paper (the account and affidavit) is not entitled of any cause or any Court, but is marked, "filed Sept. 24, 1859. D. W. WHITNEY, Clerk."

Immediately following this paper in the record is an account without heading or explanation of any kind, footed up \$1,281.-89, which is marked, filed March 16, 1860.

3 September 24, 1859, in term, parties appeared in open Court, and defendant moved for a dissolution of the injunction, which was denied. The record of that date proceeds as follows: "It is thereupon ordered by the Court that this case be referred to the master of this Court, to take proofs herein and report the same to the Judge of this Court, at chambers, by the 15th day of November next, and thereafter, by agreement of parties, decree to be made and entered as of this term."

9 On the 13th of March, 1860, the Master's Report was filed, reporting the deposition of A. F. Powers, a witness for complainant, taken before the Master, Nov. 11, 1859: Know that
63, 64 the parties have had considerable dealings. Know there has been money borrowed by complainant of defendant; do not remember the different times and amounts. Think these money transactions began about 3 years ago. When complainant borrowed money of defendant, complainant gave judgment notes
65 therefor, six or eight in all, I think, due, some 30, some 60, and I think one at ninety days. Interest at 3 per cent. a month was discounted from these notes till about two years ago; afterwards through that winter 5 per cent. a month. Int. 15. "When these notes were not paid, (if they were not,) how were they extended?" Ans. "The interest paid, and written on the back of the notes extended." When the interest was not paid, I have known

Page of Pcc. him to give a new note for the interest. The interest was paid
 66 in advance, either in money or notes. The notes given for interest bore interest at 10 per cent. Interest was added into them as principal, I think, at 3 or 5 per cent. a month. I was present at an interview between the parties. At that time interest was figured up, and a common note for two hundred and
 67 forty some dollars, dated, I think, last February, was given, and placed in my hands for 10 days. Think it was payable 10 days after date. Think I held that note 15 or 20 days; there was then no indorsement on it. I delivered that note to M. G. Leonard. It was given for interest at 3 per cent. a month on Ball's indebtedness to Leonard. At that interview Leonard had in his possession a number of notes against Ball. Leonard then said he would give him time if he would secure him. Think the demand was all in notes; I saw them figure up the demand and interest from notes that Leonard then held, all past due except the one there put in my possession. Have been with Ball several times when he has paid money on interest to Leonard, and have seen him pay and take up three or four notes. Was present several times when Ball paid Leonard amounts to apply on interest;
 70 rest; could not say that I ever saw him pay more than \$50 at one time to apply on interest; think I saw him pay Leonard \$53 for interest, the day he raised his interest from 3 to 5 per cent. As near as I can remember, I could not state exactly the intervals at which interest was figured up and paid, or note given;
 71 would run from 30, 60 and 90 days; it might run even longer, and till after notes were due. I believe the interest was compounded at those intervals.

Cross-examined: Could not state the number of notes I have signed with Ball—probably five or six. Do not mean by my answer to interrogatory 11, (page 64) that that was all the notes Leonard had; he might have had more that I did not know about. Cannot give the date of the note at 90 days; think it was for \$200, and signed by Ball and myself. Would not be positive of any dates or amounts of notes on which interest was received by Leonard, and extended and endorsed; recollect one note given two years ago this fall, think for \$200 on 60 days. Cannot describe the notes into which interest was put as part of principal. Could not say upon what amount of notes interest
 73 was computed when Ball paid the \$53; it was at the time he got a note of \$200 discounted; think the date of the note was two years ago last Sept. or Oct., and that it was signed by Ball and myself. Think that in Feb'y., 1859, Leonard claimed \$190.30, (Ball's indebtedness to him.) I kept no memorandums of the

Page of Rec. payments. Suppose I was not present at all times when Ball got money from Leonard. When I was present, and money was paid as interest, the amount (was) put on the note; it stated on
 74 the note, interest paid for a given length of time. Don't pretend to say what is the full amount received by Ball of Leonard, or paid by Ball to Leonard; can only tell what I have seen Ball receive and pay. Know the payment of \$53 was for interest, because I heard them say so. Could not say I saw any indorsements on the notes at this time. Don't consider I have any inter-
 75 est in the event of this suit. Think five or six of the notes in defendant's hands were signed by me; it may be to the amount of \$1,200.

77 Complainant's counsel demands of defendant's counsel the production of papers named in a subpoena *duces tecum*, (page 61, Record.) Defendant's counsel refuses.

And the deposition of *John H. Ball*, a witness for complainant, taken before the Master, Nov. 11, 1859: I do not know of any money transactions between the parties, except from conversations with them, and from notes, papers, and books of account that I have seen relating thereto. In Nov. or Dec., 1858, or
 78 Jan., 1859, (79,) by request of D. H. Ball, I called on Leonard to get a statement of account, and to see if Leonard still held D. H. Ball's notes, and how much interest was due at the rate he was then paying. Saw the notes; there were eleven, I believe; they were judgment notes; most of them secured by indorsements of one or more parties. None of the notes were at that time assigned; they were all past due. The clerk in Leonard's office figured up the interest on them at 3 per cent. a month, on a proposed extension of 30 or 60 days, and proposed to take a new note at 30 days, and added in interest at 3 per cent. as principal. Feb. 28, 1859, I saw Leonard at my brother D. H. Ball's
 79 house. Leonard then held eleven notes against D. H. Ball, and proposed to me to calculate the interest on them, and see what they amounted to. Leonard took the notes one by one, read them over, dates and amounts; as he did so, I wrote them down. There was one note of Jan. 29, 1858, for \$125; one Feb. 10, 1858, \$161 75; one April 10 or 16, 1858, \$200; one June 16, 1858, \$75; one May 26, 1858, \$75.47; one June 18, 1857, \$200; one May 26, 1857, \$100; one Oct. 15, 1857, \$200; one Sept. 21, 1858, \$98.40; one Aug. 14, 1858, \$52.90; one Dec. 29, 1857, \$400. We calculated the interest on those notes from time of last payment of interest at 3 per cent. a month; it amounted to \$243.25, for which Ball then gave Leonard his note, which was delivered to A. F. Powers. Have had many conversations in

Page of Pec. presence of Leonard about this matter. He talked about these
 80 notes, some as interest notes, some money notes, and some being
 for both interest and money. The notes of Feb. 28, '58,
 81 \$243.25, Aug. 14, '58, \$52.90, Sept. 21, '58, \$98.40, and I believe
 the note of May 26, '58, \$75.47, were always spoken of as
 interest notes; those of Jan. 29, '58 \$125.00, and Feb. 10, '58,
 were for part money and part interest. Was told by Leonard,
 or Mr. Lewis, his clerk, that the other notes were given for
 money, but for a larger sum than was actually received, the notes
 being discounted at 3 or 5 per cent. a month. From commence-
 ment of dealings till Sept. 10, 1857, the interest charged was 3
 per cent. a month; from then till April 19, 1858, 5 per cent. a
 82 month; from then 3 per cent. a month. The interest was always
 charged in advance, and when not paid was compounded every
 30, 60 or 90 days. I learn these facts from conversations I have
 had with Leonard and his agent. Leonard professes to have the
 notes, but refuses to produce them. I acted in this matter as
 agent of D. H. Ball. About a month since, I demanded of Leo-
 83 nard to inspect the notes and books of account relating hereto.
 Leonard refused; and again on the 10th inst. I twice made a like
 84 demand, and he did not comply. Leonard said he would not
 produce them to enable us to make up our case. He or Thomp-
 son remarked: "No, Ball, we have got you tighter than a
 brick now." It was necessary for Ball to have access to these
 notes and endorments to make up his accounts; he had no
 other memorandum.

85 Just before beginning this suit, D. H. Ball and myself applied
 to S. A. Hurlbut, Esq., to put in his own hand writing and lan-
 86 guage a certain bill of complaint that I brought him ready pre-
 pared. He was employed by me for D. H. Ball to appear as at-
 torney in the case. No advice was asked of him, and no authority
 given him to make any arrangement whatever in the case. A
 few days after the commencement of the suit, he desired that D.
 H. Ball should compromise with Leonard, and pay him interest
 at 2 per cent. a month; and, again, a few days after, he desired
 that my brother should pay Leonard 20 per cent. per annum; to
 both of which propositions I objected—told him my brother
 would pay no more than 10 per cent. I believe on the first day
 of the last term of the Court, I examined the records to find the
 answer of Leonard in this case, and found none; but found a
 stipulation, signed by Mr. Hurlbut, releasing defendant for file-
 ing a full answer as required by the bill. There was filed an
 imperfect statement of account, which Mr. Hurlbut had stipula-
 ted should be received in lieu of the answer required by the

Page of Rec. bill. I required of Mr. Hurlbut immediately, as he had no au-
 87 thority to do so, to require of Leonard an answer. He promised
 to do so, and told me he had made the application; that the an-
 swer would not be filed till late in the term, and that D. H.
 Ball and I could go home till Saturday. Saturday morning I
 was again at Court with my brother, and found that no applica-
 tion for a full answer had been made by Mr. Hurlbut; but that
 the case was disposed of for the term. Mr. Thompson told me
 a few days after the term, that there was an agreement of some
 kind between Mr. Hurlbut and himself, that Mr. Hurlbut would
 insist that D. H. Ball should pay 20 per cent. on this indebted-
 ness, and if Ball refused, that he would withdraw from the case,
 and, if the Court would permit him, he would dismiss the bill.

88 Cross examined: I collected the facts in this case, and em-
 bodied them in a bill, but not the bill filed. Have never paid
 money to any person to assist in this suit.

91 When I called on Leonard in Dec., '58, or Jan., '59, I told
 Lewis I came there at the request of D. H. Ball.

92 Just before commencing this suit, I proposed to Leonard to
 produce his notes against my brother, and told him I was pre-
 pared to pay the amount really due, computing interest at a le-
 gal rate. He said, "where is your brother? I won't settle
 with you," or words to that effect. I then told him my brother
 thought he owed him about \$600.00, which I would pay him if
 he would cancel the notes. Leonard said he would do no such
 thing.

95 (Witness is shown 12 notes;) these notes agree substantially
 with my memorandum. (Defendant places in Master's hands
 notes marked 1 to 12, to be used on the trial.) Have said I be-
 96 lieve the statement filed as an answer was in effect correct, and
 103 did believe so till Leonard refused to produce the notes and
 books.

104 And the Master further reported that the above was all of the
 evidence produced by complainant; and he further reported as
 part of his report, 12 notes mentioned in testimony of John H.
 Ball; (but they seem in fact not to have been returned, for they
 are nowhere found in the Record.)

3 At March term, 1860, (March 13,) complainant moved the
 Court to vacate the order of Sept. 24, 1859, which motion was
 overruled, and thereupon complainant presented his petition and
 affidavit for a change of venue, on account of the prejudice
 against him of the Judge, (see stipulation, page 147, and Record,
 8, 3 pages 8 and 3,) which petition was in the usual form, (111,)

Page of Rec. showed notice to the adverse party, and that complainant's first
 8 knowledge of such prejudice was the day before the application. Motion for change of venue was denied, and thereupon it was ordered "that decree in favor of said defendant, and against said complainant herein, for the amount found to be due and owing from the said complainant to the said defendant, be and now is entered of record."

5 Here follows what purports to be a decree, but is not entitled of any term, bears no date, and is not signed by the Judge, reciting the above order of Sept. 24, 1859, and that the Master, on Nov. 10, 1859, proceeded to take all proofs offered before him, and that on the 14th of the same month he reported the same to the Judge at his chambers; and that on Jan. 23, 1860, in pursuance of notice by the Judge, (and the agreement of the parties) the parties appeared before him at chambers, and the same was adjourned till the next day; and on that day it was further adjourned until March 13, 1860; that the cause was heard upon bill, answer and proofs reported by the Master, and there appeared to be owing to defendant from complainant on said several notes, a balance of \$1,281.89, counting interest at 10 per ct. per annum; it is therefore decreed that defendant surrender to be cancelled said notes if complainant shall pay in to the Clerk said \$1,281.89; and unless complainant pay said sum within 20 days, bill to be dismissed and injunction dissolved.

The Bill of Exceptions was filed March 16, 1860, occupying pages 11 to 31 of the record, showing that on Jan. 24, 1860, before the Judge at chambers, complainant, by A. M. Herrington,
 11, 29, 30, 13 his solicitor, moved to set aside the said order of Sept. 24, 1859, which was denied by the Judge. To support this motion is the affidavit of John H. Ball, that affiant had the entire management and control of this case; that Hurlbut was employed by him merely to draw the bill under specific directions how it should be drawn, and did draw it accordingly. That between the filing of the bill and Sept. term, 1859, Hurlbut stated at one time to affiant that Leonard would make a true statement of the money dealings between the parties, if complainant would pay the principal, and interest at two per cent. a month, which proposition was promptly rejected; afterwards, at another time before that term, Hurlbut presented to affiant a statement in Hurlbut's hand writing, purporting to be Leonard's account against complainant, made up at 20 per ct. per annum, and Hurlbut said to affiant that he (Hurlbut) desired complainant to pay it, and that defendant would agree to that settlement. Affiant replied that complainant would pay no more than legal interest. That after-

Page of Rec. wards, during the Sept. term, 1859, and as soon as affiant learned the fact of the signing by Hurlbut of the stipulation, (accepting a sworn account instead of a full sworn answer,) affiant, at the request of complainant, called on Hurlbut, and suggesting that a full sworn answer was necessary to make out complainant's case, and that said stipulation was without the knowledge or consent of complainant, insisted that Hurlbut should immediately give notice, and demand a full sworn answer to the bill, and Hurlbut promised to do so at once; and that two days afterwards, in reply to an inquiry from affiant, Hurlbut said that he had given such notice, and that defendant would file such answer, but had not done so yet. Hurlbut then advised affiant that complainant and affiant could safely go home and leave the case with him for the term. That affiant and complainant did go home, but returned to Court Saturday, the last day of the term, and found that no answer had been filed in the cause, but that the cause had been disposed of for the term by the order of Sept. 24th, above set out. That affiant hastened to Hurlbut, and insisted that he should state the facts to the Court, and require the order to be vacated, and that Leonard should make a full sworn answer the bill. This Hurlbut promised to do, but neglected to do so; and a little while before the adjournment for the term, affiant again applied to Hurlbut, and told him that if he would not take action as required, some other person would do so. That Hurlbut immediately rose in Court, and withdrew his appearance in said cause as solicitor for complainant. That this occurred not more than ten minutes before the final adjournment of the Court. That this withdrawal took complainant by surprise, and that he had no time to procure proper counsel before the adjournment of the Court. That after the adjournment at that term, affiant, in behalf of complainant, applied to Leonard for an inspection of his books, which was refused. That afterwards, Thompson, Leonard's solicitor, told affiant that Hurlbut had agreed with Thompson, that if Leonard would produce a full statement of the money account between Leonard and Ball, Hurlbut would insist that Ball should pay the same with interest at 20 per ct., and if Ball would not do it, then Hurlbut would withdraw from the case, and if the Court would allow it, would dismiss the bill.

Also the affidavit of complainant, stating substantially the same matters contained in John H. Ball's affidavit, and stating distinctly, that the stipulation signed by Hurlbut, waiving a full answer by defendant, was made without the knowledge or consent of affiant, and against his express wishes and directions; and also stating particularly, that during the Sept. term, 1859, in addition to the efforts of John H. Ball in that behalf, complain-

Page of Rec. ant called in person upon Hurlbut to inquire whether Leonard's
 21 full answer was filed, when Hurlbut stated he had notified Leonard's solicitor that complainant was not satisfied with that stipulation, but insisted upon a full, sworn answer to the bill; and Hurlbut further stated that defendant had thereupon agreed to make a full, sworn answer, as required in the bill. That after this interview, Hurlbut, without his knowledge or consent, had consented to the order of Sept. 24th, 1859. That complainant was taken wholly by surprise by the sudden withdrawal of Hurlbut from the case, as stated in John H. Ball's affidavit, and that Hurlbut, at the same time, sought to have complainant's injunction dissolved. That a full, sworn answer was essential to his
 26 rights in many respects, (which are specified, pages 26 and 27;) and that just at the adjournment of the Court, and after the Court had ordered the Sheriff to declare the Court adjourned, complainant, by John H. Ball, protested against said order of 24th Sept., and made an ineffectual effort to have the same set aside.

29 The Bill of Exceptions recites, as a ground for refusing the motion, ~~that since~~ the term complainant had taken proofs before the Master; and that he had given no notice of this motion; and that at the term, after the withdrawal of Hurlbut, A. F. Randall appeared as attorney for complainant, and in open Court assented to the arrangement contained in the order of Sept. 24.
 30

107 At March term, 1860, complainant renewed his motion to vacate the order of Sept. 24, 1859, and filed in support of the same
 113-121 the above affidavits of John H. Ball and complainant.

9 On the 16th of March, (after the decree was entered,) the Court permitted Hurlbut, to vindicate his reputation, to file in this cause his affidavit, and that of Thompson and Leonard, which are set out on pages 133 to 142 in record.

133 Hurlbut denies all fraud and combination, but admits that he did say to Fuller and perhaps Thompson, that Ball ought to pay the 20 per cent.; that he said to Thompson that if *he* became satisfied that complainant was using the Court for delay, *he* would
 134 either insist on complainant allowing the 20 per cent. or leave the case. That the management of the case was in the hands of John H. Ball.

136 He also states that when he found, on the last day of the term, that Mr. Randall was coming into the case, he immediately withdrew *his appearance* and *withdrew the stipulation*, and that Randall, for complainant, then moved to continue the cause, and for

Page of Rec. a rule for a full answer. The Court denied the motion and was about to dismiss the bill, when Hurlbut suggested that it would be simple justice to allow the stipulation to stand, which was agreed to.

139 Thompson's affidavit corroborates Hurlbut as to the occurrences above stated; repels the insinuation of corruption contained in Ball's affidavit.

Leonard's affidavit discloses no facts, and denies any tampering with Hurlbut.

POINTS FOR APPELLANT.

I. The cause was heard improvidently, and against the will of complainant.

I. Hurlbut had no authority to make the stipulation to dispense with a sworn answer, and even if he had the authority to bind his principal, he abused his trust so grossly that complainant ought not to have been bound by it. Defendant must have been privy to this abuse, and ought not to be allowed to take advantage of this misconduct of appellant's attorney.

II. Even by the terms of the stipulation, the cause was not at issue, for there is no "foregoing" statement in the record on which the stipulation could take effect.

III. Even if the Court should presume, against the language of the stipulation, that it refers to the account stated in the succeeding pages of the record; still the terms of the stipulation are not complied with, for no *subsequent* affidavit was made touching said account as required by its terms, nor is the affidavit, which appears to have been already made, such as is required by the stipulation.

IV. It was irregular in the Court to proceed on its own motion to the hearing, against the will of complainant, in any event. If the cause were ready, and complainant not entitled to further time, and complainant refused to proceed, the proper order would have been to dismiss the bill for want of prosecution.

V. It is irregular for the Court to act upon such a stipulation. The law has fixed the mode of pleading and the mode of waiving, it and when the sworn bill of complainant demanded an an-

swer full and under oath, the attorney could not waive it except by amending his bill, which was not done.

VI. The affidavits of complainant and John M. Ball show cause for setting aside the order of September term, and the recitals of the Judge do not remove the cause, especially when it is evident that the conduct of Randall and Ball in submitting to the order in the hurry of the adjournment, was induced by the fear that the cause would otherwise be dismissed.

VII. The application for the change of venue ought to have been allowed. It was made as soon as it possibly could have been made after the cause was known, and there is no other limitation in time by the Statute.

VIII. The Court ought not to have made a decree until the notes had been produced and put in the power of the Court.

IX. The decree is for too much money.

X. The decree ought to have enjoined the collection of the excess contained in the notes, even if complainant had not been able to raise the true amount.

T. LYLE DICKEY,
For Appellant.

305. - 1860

Ball

vs.

Leonard.

Abstract.

Filed May 16, 1860

L. Leland
Clerk

Supreme Court
Ball

vs
Leonard

Dfts Brief &c.

This voluminous case is merely for the purpose of procuring the Statement of an account between the parties - which is given on pages 51 & 52 of the Record.

And I regret that the Counsel in making his abstract did not set out in it that account.

To the justice of this account not the slightest objection is made.

The Amount of Money for which the Decree is rendered based upon this account is said to be too large the 9th Point & that the exerts of interest should have been enjoined without any conditions the 10th Point are the only matters of substance relied upon by the Appellant & all the others are mere forms.

That the cause was heard improvidently & against the will of the Complainant amounts to a contradiction of the records.

In Randall the Atty of the Appellant consented in open Court that the cause

should be heard and full time was
given the party to get in his proofs of
which he availed himself for all
the testimony taken is that of his
own witnesses upon his own notice
page 59. & the order of the Master page 55.

And I call the attention of the Court
particularly to the statements of the
bill of exceptions from page 29 to page 31.

If a party after making the solemn
admissions that are there set forth shall
be at liberty to come in & get up the fog &
smoke in long windy affidavits such as
are set out in this case charging every body
with fraud & corruption & upon them the
Court set aside & vacate the orders based
thereon. We shall never know an
end of litigation.

The Off in this case is really a
defendant his constant endeavour is to
delay the day of payment. He pretends
he does not know the balance due
from him but swears he is willing &
ready to pay it at ten per cent, and
the Court takes him at his word and
yet he is not content but seeks for
more delay.

Whether Hurlbut had the authority to make the stipulation he did as the attorney of the party is a question for the Court. A full answer could have been no more than is done there so far as the receipts payments & notes to be discovered are concerned. & Deft does not claim that there are other notes outstanding in his own knowledge. Stipulation denies all other facts and the party does not disclose how he is prejudiced for want of a discovery as to the other points of the bill. To set aside a stipulation made by the atty. acted upon by the other side at least some semblance of injury arising therefrom should be made to appear.

I certainly did not expect that in this Court abuse of trust would again be charged upon Mr. Hurlbut unless the party thinks that it is the duty of attorneys to ~~serve~~ ^{bind} themselves to aid in carrying out all the schemes that their clients may devise to prevent the payment of a just demand.

II

^{in stitching this transcript of the record together}
As to this point that this stipulation precedes instead of follows the stipu-

lation in ~~stitching~~ this Transcript
of the record together. The statement shows
its utter futility. Just transpose the
loose papers of which this bumbling Clerk
made up this record & this point is
answered -

III

The paper is entitled of the September
term 1839. when it was in fact signed
by the parties does not appear. It is
duly sworn to & that is all the stipu-
lation required. - None of these excep-
tions are alluded to in the Court
below. - The parties evidently treat
the Stipulation account & affidavit
as all one document. - in the cause -
& these formal objections unless urged
here will not be heard in this Court. 2

IV

When the Complainant either dis-
misses or asks leave of the Court to
dismiss his bill & go out of Court - he
has a right to go - but the idea that
because a complainant who is fighting
for delay - ~~leaves~~ & says he is not

ready to have the Cause heard therefore
asks leave to have his bill dismissed is
a gross absurdity & still more ridiculous
would the Court appear if because the
Complainant should say he is not ready
for the hearing it should send him
out of Court so instantly

There is nothing in the case showing
the Complainant refused to proceed -

The party applied to vacate the order
when that was denied the case was
heard by the Judge see page 30 at
foot of page -

The Complainant did not then
refuse to proceed in the case - and he
had not before because his motion
was simply to set aside the order
see page 11 of record -

V

Why it is irregular to act upon this
stipulation I cannot conceive -

It is not unlawful or illegal. The
Censor of the Dept under oath is
presumed to be for Compts benefit &
if he chooses to waive it he can do so
in any form he please the Statute

does not bar him neither does it say
that it shall be in the bill - It
simply says it may be waived that
may be by order of record or by stipu-
lation filed - § 21. Chancery

1 Dar. Chy
practice 357
+ note. Again All attorneys signature to a bill
unless it call for an injunction and
must be sworn to. is sufficient so
that it is competent for him to waive
the sworn answer by stipulation if
he deems it best in the progress of
the suit.

VII

But the Complainant takes no ex-
ception to this proceeding until after
he has taken his testimony under the
Order - on his own notice & comes before
the judge for the hearing -

I do not find from the record in
this cause at what time Mr Randall
was employed by the Balls. It seems
they told Hurlbut (page 17) that if
he would ~~take~~ his steps in regard
to this stipulation some person would
do it for him. This taken in connection
with the fact that Mr Randall takes
his place afterwards in the case shows

that ^{they} prepared themselves with Counsel
before hand & he did not act upon the
spur of the moment.

VII

Changes of venue are made to
obtain a trial of the cause before a
supposed impartial tribunal and are
based upon the assumption that a trial
has not been had. The Court to which
the cause is sent takes the case up
where the Court from which it comes left
it. In this case to have allowed the
change would have been to have given
the party a new trial. The Court to
which it was sent could not render
a decree without a new hearing.

The language of the Statute supposes
the change to be made before trial.
How absurd it would be for a party
when the jury had left the Court room
& were deliberating upon their verdict
to ask the Court for a change of venue
so in this case after the Court had
heard the cause & is about to render
a decree the plaintiff wants another
Court to render a decree upon evidence
that it never heard.

The bill of exceptions states that the cause was heard January 24th 1860, and on the 13th day of March 1860. the Complainant renews his motion to vacate the order of Sept 24/59 which is denied - he then applies for a change of venue which is denied - & then the Court orders a decree to be entered see page 3.

VIII

The decree requires the Complainant to give up & Surrender all the Notes.

The Master page 105. reports that the Notes named in the testimony are surrendered to him & returned with his report - so the Notes are under the power of the Court.

IX

The computation I suppose to be correct on the 19th March 1839, the original bill was filed the Complainant in his bill offered to pay all that was then due - a vest is made in the account at that time as he ought to have brought the money ~~with~~ into Court Interest is then again calculated up to the time of decree - I don't think it is at all inequitable or

ready to have the cause heard therefore
asks leave to have his bill dismissed is
a gross absurdity & still more ridiculous
would the Court appear if because the
Complainant should say he is not ready
for the hearing it should send him
out of Court so instantly

There is nothing in the case showing
the Complainant refused to proceed -

The party applied to vacate the order
when that was denied the case was
heard by the Judge see page 30 at
foot of page -

The Complainant did not then
refuse to proceed in the case - and he
had not before because his motion
was simply to set aside the order
see page 11 of record -

V

Why it is irregular to act upon this
stipulation I cannot conceive -

It is not unlawful or illegal. The
Custom of the Dept under oath is
presumed to be for Compts benefit &
if he chooses to waive it he can do so
in any form he please the Statute

does not bar him neither does it say
that it shall be in the bill - It
simply says it may be waived that
may be by order of record or by stipu-
lation filed - 321. Chancery

1 Dan. Chy
practice 357
& note.

Again All attorneys signature to a bill
unless it call for an injunction and
must be sworn to, is sufficient so
that it is competent for him to waive
the sworn answer by stipulation if
he deems it best in the progress of
the suit.

IVII

But the Complainant takes no ex-
ception to this proceeding until after
he has taken his testimony under the
order - on his own notice & comes before
the judge for the hearing -

I do not find from the record in
this cause at what time Mr Randall
was employed by the Balls. It seems
they told Hurlbut (page 17) that if
he would ~~take~~ his steps in regard
to this stipulation some person would
do it for him. This taken in connection
with the fact that Mr Randall takes
his place afterwards in the case shows

unjust.

X

If a party asks a Court for equity he must do equity. It is not just or equitable that he should, without paying what is really due, require the other party to surrender his securities especially as the persons who had signed these notes as the securities of the Complainant were not before the Court & no decree could be entered against them.

I desire to call the Courts attention to the fact that the books, papers & memorandums of the Dept were offered to the inspection of John H. Ball the factotum of the Jff - for his inspection & he declined to look at them see page 97. Int 29 - This is omitted in the abstract entirely.

This offer was made on the 11th Nov. 1859 about 11 A.M. and he declines to examine them because he says the examination is notified to be closed on the 13th - & he is a witness on the Stand.

⁰⁰⁵⁻
Sup Court

Bull

^{by}
Lionard

depts ayt

Filed May 16. 1860
L. Deland
clerk

P. M. J. P.

Hickey's Response to Burgess written
Argument -

Burgess insists that the ~~Decree~~^{Cause} was
not heard improvidently - because Randall
in September 24th - & consented that the Cause
might be heard - I answer that the consent
if any was given - was that the Case should
be heard in vacation & the hearing in point
of fact occurred at the March Term 1859
(see the recitals of the Decree on page 6
of the record) - & before that hearing did occur
- the facts in relation to the manner in which
the rights of the Complainant had been violated
were fully presented to the Court - & even then
Complainant was demanding to have the former
order set aside & a full answer & a production
of defendant's books - - I answer 2^{ndly} that
the order of Sept 24th does not purport to have
been entered "by agreement" but it recites
that the case is afterward to be heard "by
agreement" that means at such time as parties
may agree -

Burgess - says my objection - that there
is no "foregoing" account - to which the stipulation
can be referred - is utterly futile - "Just transpose"
says he "the loose papers of which this bungling Clerk"
"made up this record & this point is answered"

(over)

This I insist is not so - The stipulation is on a half sheet making pages 49.50 of the record & the account he speaks of - is on a half sheet making pages 51 & 52 - I hope the Judges will turn to the record & examine these papers - They will find that - these papers were separate pieces of paper in the Court below - One of them is marked "E." & the other is marked "F." & the judges will see that each is marked "filed" separately each for itself - The filing of E is on page 50 - & the filing of F is on page 52 - and altho filed on the same day they purport to be separate papers & the paper on which the stipulation in the Court below has no "going" "account" so attached to it as to make it the subject of the stipulation - A transcription of the papers therefore would not help the case - But suppose it would - What right has Mr Burgess to ask the Court to transcribe them - This would be rather a dangerous practice - If a ^{transcript of a} record is erroneous - deficient - or inaccurate - the law & practice furnish a safe remedy in a suggestion & a certiorari. The learned gentleman chooses not to resort to this but has, (I may be per

mitted to say) the audacity to ask this Court upon his mere suggestion - to guess that the transcript is erroneous & then to guess how it ought to be corrected

I ask the Court whether, if the affidavit (attached to the account at the foot of page 52). be false - the maker thereof could ~~spread the case~~ appears on the face of this record, be held for perjury? I think not - How then can it stand for an answer to the bill - It is entitled of no Court - of no cause - is not the subject of the stipulation - he was not under any legal obligation to make the affidavit - I insist it is legitimately no part of the record - & without it the Case is ~~surely~~ surely not ready for hearing - The whole decree is inequitable & ~~the judge~~ it was not bound by the decree & might have it reversed if he had brought it here & Bull has a right to have this decree reversed that he may get a valid decree entered - A party may have his own decree reversed if erroneous -

It is said that by the stipulation - all other facts charged in the bill are denied - & the Complainant does not show of his own knowledge that there are any more notes than the 12 - mentioned in the bill & the decree - & defendant asks how can the Complainant be prejudiced - by taking this account - I answer that "that denial of all other allegations" by the stipulation is the gross abuse by Hurlbut of which we complain -

Complainant swears - that the bal against him cannot exceed \$700 - & he thinks is not above \$600 - & asks not only a full sworn answer - but the production of Leonard's books - memoranda - vouchers & securities - that he knows of these 12 notes but he wants the discovery as to whether there are not others - & that they may be produced & put under the control of the Court & of this right Complainant is robbed by the action of the Court & its officers and he is asked to take the naked statement of his adversary without the means of testing its honesty or accuracy -

The change of venue was, ^{mayed} in good time - & ought to have been granted
1st The body of the decree page 6 shows that the case was heard at the March Term 1860 & not in January - -

2nd The stipulation signed by myself & Burgess on page 147 - is that the transcript in the case is wrong in stating that the application for change of venue - was made after the decree - & that on the hearing of this cause (in this Sup. Court) the case is to be heard as if the refusal of the Change of venue stated on page 8 - were inserted in page 3 - before the order of the Court that the ~~decree~~ be entered - (see bottom of page 6 of the abstract) - The trial had not been had when the petition for a change of venue was demanded & the fact that it was refused - with other features of that decree shows that it was not demanded without Cause -

It is said that the bill of exceptions says "the Cause was heard Jan 24" - it is true that the Judge has injected into the belly of this bill of exceptions - these words - "the case was heard by said Judge" but it does not say when

& the recitals of the decree itself page 6 - of record - shows that "the cause was adjourned to the 13th of March 1860" & was heard at the March Term - & before any hearing at that time this application was made for change of venue -

VIII. The answer to objection 8th that the notes ought to have been before the Court before the decree was made as found in the argument of Briggs is untenable & for us and he or some one else has artfully endeavored to manufacture an answer since the cause was submitted -

I find among the files of this cause a document - "filed" on the 22nd day of "May 1860" - The clerk informs me that it came to him by mail in an envelope without note or comment

It has not the audacity to pretend to be "an amended record" - nor does any one father the filing thereof - - Now what is it - The clerk of the Circuit Court certifies that in the records & files of this cause in his office - in the masters report occurs "the following passage" & here

inserts a part of the ~~record in~~ transcript
in this cause found on page - 96 of the
record - (All that we knew before for we
have in the transcript) -

What next?

He proceeds - (that is the Clerk) - "I do
" further Certify that " in the above
" entitled Cause is now on file in my
" office Certain notes of which the following
" are copies - viz (Here follows the copy
of 12 notes) & "all which is certified to
be true copies from the files of said
Court" & this Certificate of the Clerk
bears date May 21st 1860 -

Added to this is a paper attached
purporting to be a certificate of the Master
to this Court - that the papers in the Clerk's
Certificate are true copies of papers
produced before him - at the taking of the
depositions, & that the same are numbered
1 to 12 inclusive signed by the Master -

I remark about this paper that
it does not purport to be a part of the
record - & No diminution was suggested
no certiorari awarded & no agreement
made about & the document comes here
illegitimately & without notice to me
save the accidental remark of
the Clerk - It is not before this Court

But suppose all that is stated in
the paper

It has been manufactured since
the Cause was submitted & filed without
leave of the Court - It is of a piece
with Hurlbut's supplementary
affidavits in the Court below -

But suppose all that this
paper says is true - The clerk
says - notes (of which there are
copies) - "is now on file" - in his
office - Waving the grammar - let
me ask when were they filed? -
The document don't say - I think I
could give a shrewd guess - I would
say since this Cause was here submitted.

The truth being as I am advised
that these notes after being exhibited to
the master - were taken into the hands of
Leonard the Defendant - & he has kept
them ever since - & had them when
the decree was entered & now files
them & gets up these specious certificates
- full of special pleading to mislead the
Court - It is I believe the first time
I ever knew a master in Chancery
to certify direct to the Supreme Court

and I am not prepared to say by
what legal authority - credit is to be
given to his Certificate

I will not elaborate the other
points in our brief - I close by
saying that no unbiased mind can
read the record without being
impressed that Bull did not have
an impartial hearing & that he
fell into the hands of the Philistines

J. Lyndberg

305-

186 agenda

Ball

vs

Leonard

Dickey's argument
for Ball
appellant

July 6 Dickey

State of Illinois } J Fayette B Samuels Master
Boone County } in Chancery in & for said
County & State of said do

hereby certify that the papers herunto
are annexed are, ^{that} Copies of the papers pro-
duced before me as such Master in Chancery
in the taking the depositions of divers
Witnesses in the Case wherein Samuel A Ball
is Complainant & Marcellus G. Leonard
is Defendant. On the Part and behalf of
Said Defendant And that the same
are numbered as follows to wit Number
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. ~~11~~ 11. & 12 And that
Said depositions were taken on the 10th
11th & 12th of November A.D. 1859

J B Samuels Master
in Chancery.

3051 - 1866

Daniel H. Ball

vs

Marcellus J. Leonard

Filed May 22, 1860

L. Leland

Clerk

State of Missouri } In the Boone Circuit Court
 Boone County } In Chancery
 Daniel H. Ball }
 vs. } Bill
 Marcus G. Leonard }

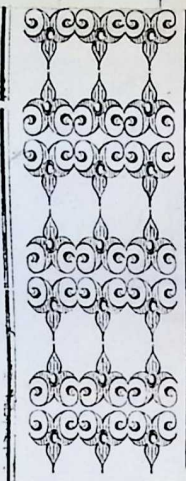
I, Daniel H. Whitney, Clerk of the Circuit Court of said Boone County, do hereby certify that in the Records and files of the above entitled Cause lately pending in said Court is the Report of Fayette B. Hamlin Master in Chancery in & for said County, of the evidence taken before him under the Order of said Court made in said Cause - in which report indorsed "filed March 13, 1860." Occurs the following passage, in Answer to Interrogatory 27, propounded in reference to 12 promissory notes, that is to say =

"Ans

All the notes except a note No 11 corresponds in date & Amount with my Memorandum. the date of that one corresponds with my Memorandum but there is a slight difference in the Amount. The note is for \$243.05, my Account is \$243.25. I presume it is my mistake. I think the notes are the same that I saw in Mr. Leonard's possession on that occasion." "Herewith Defendant places in Master's hands Twelve notes marked as above (in said Interrogatory No. 27, the notes alluded to are marked 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12 respectively)

And for the inspection of all parties and to
be used by the Court on the trial of this cause."

And I further certify that in the above entitled
Cause is now on file in my Office certain notes
of which the following are copies, to wit



Thirty Days after date, for value received,
 I promise to pay **M. G. LEONARD**, or Order,
Four Hundred Dollars,
 with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball
W. M. A. Miller

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted
 unto **M. G. LEONARD**, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
Four Hundred DOLLARS, made payable to the said **M. G. LEONARD**, or ORDER,
 and due Thirty Days after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof
 is hereby acknowledged, I do hereby make, constitute, and appoint **FAYETTE D. HAMLIN**, or any Attorney
 of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my
 appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States,
 or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said **M. G. LEONARD**, to
 waive service of process, and confess a judgment in favor of the said **M. G. LEONARD**, or his assigns or legal representatives, upon the
 said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at
 the rate aforesaid, and ... 400 Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a
 Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any
 bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to
 release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby
 ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby
 further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State
 of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 11th, A. D. 1857, is hereby
 waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on
 Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such
 Act had not passed.

Witness my Hand and Seal, this 29 DAY OF December A. D. 1857.

In Presence of
J. W. Lewis

Daniel H. Ball SEAL
W. M. A. Miller SEAL

STATE OF ILLINOIS, }
 COUNTY OF BOONE, } ss. I, _____ a
 in and for the said County, Hereby Certify that
 who personally known to me as the same person
 who has executed the above Instrument of writing, personally appeared before me this
 day of _____ A. D. 185____, and acknowledged that signed, sealed,
 and delivered the same as free and voluntary act and deed. Given under my Hand and Seal

\$100⁰⁰

Belvidere Ill. May 26th 1837

on or before the 23 day of August next. for value received I promise to pay to the order of W. G. Leonard of Belvidere Ill. the sum of one hundred dollars with use, and I also empower and hereby authorize S. W. Pray or any Attorney of any Court of Record to enter my appearance therein at any time after this note becomes due and waiving all process to confess judgment against me for the amount due thereon with the cost of such proceedings in favor of the holder thereof with ten Dollars attorneys fees and to waive all errors. with 10 per Cent interest for money loaned

Witness my hand and seal this 26th day of May A.D. 1837
In presence of
Daniel H. Ball
B. N. Deery

(2)

No 44

J. H. Bail

B. A. Dean

Int paid time
extended 30 days

Int paid time
extended 30 ds

Int paid time
extended 30 ds

Int paid Note
extended 30 ds

Int paid Note
extended 30 ds

Int paid time extend 30

" " " 80 ds

" " " 30 "

" " " 60 "

" " " 30 "

" " " 60 "

No. 249

D. H. Ball
to M. A. Miller

Not paid time
Extended 30 do
Not paid time
Extended 30 do
" " 60
" " 60
" " 30
" " 60

G. LEONARD, Jr.

1887

(1)

Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

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Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

Shops all open in these districts

Ball
vs.
Leonard.

30

Index to the Record.

1. Mch. 16, 1859, injunct. order & cause contd.
2. Sept. 24, " mo. to dissolve injunction.
3. Mo. to dissolve refused; cause referred to Master to report to judge at chambers, 15th Nov. and decree to be entered as of Sept. term.

Mch. 13, 1860 (Mch. T.) Mo. by ~~deft.~~ complt. to vacate order of Sept. T. 1859, made & denied.
Decree in favour of aft. & agt. complt. entered.

5, 6 & 7. Copy of decree.

8. Mch. 13, 1860, mo. for change of venue, made & no.
" " " Appeal allowed.
" 14, " Appeal bond filed.

9. Deft. allowed to file affidavit, Mch. 15, 1860.

Mch. 16, 1860, bill of exceptions filed by complt.

11. Jan. 23, 1860, proceedings before judge at chambers
Copy of mo. to vacate order of Sept. T. 1859.

13. Aff. of John H. Ball.

19. Aff. of complt.

29. Testimony of John H. Ball.

Refusal of judge to vacate order of Sept. T. 1859, and grounds of the judge at large.

30. Hearing, and under advisement till Mch. T., 1860. (Comp. 24)
Mch. T. 1860, mo. to vacate said order renewed, and denied.

33. The Bill.

41. Schedule of notes to bill.

43. Writ of injunction.

45. Summons.

47. Appeal Bond.

49. Stipulation about answers, filed Sept. 24, 1859.

51. Account stated, Ball with Leonard.

52. Aff. of Leonard, dated Sept. 9, 1859, as to above account,
and filed Sept. 27, 1859.
53. Computation of interest filed Mch. 13, 1860.
55. Notice to appear before Master.
57. Copy of the order of Sept. 11, 1859.
59. Notice by complt. to take oath before Master.
61. Subpoena against the defendant to produce papers before
Master.
63. Dep. of J. C. Thompson sworn in for complt.
71. Powers cross-examined by deft.
77. Demand on deft. to produce papers before Master refused.
Dep. of John H. Ball.
88. Cross-ex. by deft.
104. Report of Master, 14th Nov., 1859, filed, Mch.
13, 1860.
107. Mch 13, 1860, Mr. [unclear] writing to vacate order of Sept. 11, and
for a rule for an answer.
109. Notice of mo for change of venue, dated Mch.
12, 1860.
111. Petition & aff. for change of venue, Mch. 13, 1860, filed
same day.
113. Aff. of John H. Ball, 24th Aug. 1860.
121. " " Danl. H. Ball.
131. Appeal Bond.
133. Aff. of [unclear] A. Hulbut, filed Mch. 16, 1860.
139. " " "Huntington Thomson," " "
141. " " "Marcellus G. Leonard" " "
143. Bill of costs.
145. Cert. of Clerk.

n of this Court

State of Illinois }
Moore County }

Pleas before the Honorable Isaac G. Wilson
Judge of the Thirteenth Judicial Circuit of the
State of Illinois; And Presiding Judge of the Moore
County Circuit Court; At a regular Term thereof
begun and held at the Court House in Rebi-
den in said County of Moore, on the 14th day of
March A.D. 1859.

Present Isaac G. Wilson, Judge Presiding,
U.S. Fortyn Esq, States Attorney,
H. P. Fenrison, Sheriff;

Attest, Daniel H. Whitney, Clerk.

The said Court being duly organized,
And Proclamation thereof made by the Sheriff;

Afterwards, to wit on the 16th day of
March A.D. 1859, It being yet one of the days of the
March Term of said Court for A.D. 1859, the fol-
lowing, amongst other, proceedings were had, to-wit:
And return of Record, that is to say;

Daniel H. Bull

vs.

In Chancery

Bill for Injunction &c.

Marcellus G. Bonaul

And now on this 16th day of
March A.D. 1859, Comes the said Complainant by
Wm. H. his Solicitor; And the said Defendant by
his Solicitor, W. H. Simpson, who comes; And on motion
of Complainant's Solicitor, It is ordered that Injunc-
tion issue herein against the said Defendant, &
that this Cause be, and is hereby continued to
the next Term of this Court.

(And that heretofore, to wit: on this same 16th day of March A.D. 1859, the said Complainant, J. C. Harbort his Solicitor, filed his Bill of Complaint herein, ^{a copy of} which is hereto attached and marked A, and made a part of this Transcript.)

(33.)

(And that afterwards to wit on this same 16th day of March A.D. 1859, the Clerk of said Circuit Court issued under his hand and the seal of said Court a writ of injunction ^{a copy of} which is hereto attached and marked B, and made a part of this Transcript.)

(43.)

(And that afterwards, to wit on this same 16th day of March A.D. 1859, the Clerk of said Court issued under his hand and the seal of said Court a summons in Chancery herein, a copy of which is hereto attached and marked C, and made a part of this Transcript.) (And also on 16th day of March 1859, filed his Bond to, marked D to.)

(45.)

And afterwards, to wit: on the 24th day of September A.D. 1859, and being one of the days of the September Term of the said Boone County Circuit Court for A.D. 1859, the Hon. Isaac G. Wilson Judge Presiding;

The following, among other, proceedings were had, to wit: and return of Record, to wit:

| | | |
|----------------------|---|---------------------------------|
| Samuel H. Ball | { | Bill and injunction |
| Marcellus G. Leonard | | vs. |
| | | This day comes the said parties |

by their respective solicitors, and the defendant enters his motion for a dissolution of the injunction herein, which motion is denied by the court. It is thereupon ordered by the court that this case be referred to the Master of this court to take proofs herein and report the same to the Judge of this court at Chambers by the 15th day of November next; and thereafter by agreement of parties decree to be made and entered as of this term. (~~XXX~~)

And afterwards, to wit, on the 18th day of March A.D. 1860. It being one of the days of the March Term of said Boone County Circuit Court for A.D. 1860, the Hon. Isaac G. Wilson Judge presiding, the following, amongst other proceedings were had, ordered, adjudged, decreed and entered of record, that is to say:

Daniel A. Ball

vs.

Marcellus G. [unclear]

Bill for injunction in Chancery:

And now on this 18th day of

March A.D. 1860, comes the

respective parties herein by their respective solicitors, and the said complainant, by Harrington his solicitor, moves the court to vacate the order of this court made and entered of record September 2nd A.D. 1859, which said motion is denied by the court. To which said order and ruling of the court the said complainant by his said solicitor now here ³appears, and it is ordered that decree in favor of the said defendant and against the said complainant, for the amount found to be due and owing from the said complainant to the said defendant be, and now is entered of record:

See paper marked "B"

Decree

In the Circuit Court of Boone County
In Chancery

Daniel A. Ball

vs

Marcellus G. Leonard

And now on this ^{thirtieth} day comes of
March 1860 being one of the ^{last} March Term of
the Circuit Court held at the Court house in
Belvidere in the County of Boone and State of Illinois
the Hon. ~~Judge~~ ^{Justice} S. Vidson Circuit Judge presiding concerning
the said complainant by Harrington his Solicitor
and the said Defendant by Thompson his Solicitor and
it appearing to the Court that on the 24th day of September
A.D. 1859 being one of the days of the September
Term A.D. 1859 of said Circuit Court an order
was made by said Court that this case be referred
to Fayette B. Hamlin Esq. the master of this Court
to take proofs herein and report the same to the
Judge ^{at} Chambers by the 15th day of November A.D.
1859 and that thereafter by agreement of parties a
Decree to be made and entered as of said September
Term A.D. 1859. And it also appearing that said Mas-
ter did on the ~~thirtieth~~ day of November A.D. 1859
proceed to take the proofs offered before him and
reported the same under his hand and Seal on the
14th day of November 1859 to the Judge of this Court
at his Chambers in Geneva Boone County Illinois
in pursuance of said order made September 24 1859
And it also appears that on the 23rd day

of January A.D. 1860 the Complainant by A. W. Herring his Solicitor and the said Defendant by W. Thompson his Solicitor appeared before said Judge, for hearing of said Cause at his Chambers in General aforesaid in pursuance of Notice given by said Judge to both parties, and of the agreement of parties hereto; and it further appearing that said Cause was adjourned, until the 24th day of January A.D. 1860, at which time said parties appeared by their respective Attorneys before said Judge, at which time said Cause was further adjourned until the 13th day of March A.D. 1860 aforesaid. And said Cause having come on to be heard before said Judge upon the Bill and answer herin filed and upon the proof so taken and reported to this Court by said J. B. Hamlin the Master thereof, and it further appearing to the Court as well by the sworn Answer of said Defendant as by the testimony and proof reported by said Master as aforesaid in writing and the Exhibits therewith filed that there is now due amounting to said Defendant from the said Complainant upon the several notes, demands, Causes of action mentioned and specified in said Complainant's Bill of Complaint, the sum of Twelve hundred and Eighty one Dollars and Eighty nine Cents (\$1281.⁸⁹) being a balance due said Defendant for money loaned, and interest thereon at 10 per cent. that being the rate of interest which Complainant

in his Bill of Complaint, tenders and Agrees to
pay. It is therefore ordered, adjudged and
decreed, that the said Defendant give and sur-
render up to the Complainant & to be fully Can-
celled and discharged all notes and Evidence
of Indebtedness in his possession and mentioned
and described in said Complainant's Bill of
Complaint, and that said Defendant be re-
strained from entering up judgment upon said
notes under Warrant of Attorneys or enforcing Col-
lection of ~~the same~~ of \$243.²⁵ deposited with one
Asa J. Powers, provided said Complainant shall
pay into the Clerk of said Circuit Court of
Boone County, to be paid, out under the order
of said Court, the sum of Twelve hundred and
Eighty one ⁸⁹/₁₀₀ Dollars (\$1281.⁸⁹) And it is further
ordered, adjudged and decreed, that unless
said Complainant shall pay into said Court
the said sum of Twelve hundred and Eighty one
⁸⁹/₁₀₀ Dollars (\$1281.⁸⁹) within twenty ^{days}, to be dispensed
by the order of said Court, that then said Complainant's
Bill of Complaint shall be dismissed and the
Injunction issued herein be dissolved, and that
said Complainant pay the Costs of these proceedings.

Which said Order, Ruling, Judgment &
 decree of the Court, the said Complainant by Daniel
his Solicitor now here &c. &c. and the same is ordered
to be, & hereby is returned &c. &c.

8. (7)

And afterwards, to wit, on this same 18th day of March A.D. 1860, comes the said Complainant by his said Solicitor, and moves for change of venue herein, which said motion is denied; to which said ruling of the Court the said Complainant by his said Solicitor now here & accepts. (y)

And afterwards, to wit, on this same 18th day of March A.D. 1860, comes the said Complainant by his said Solicitor and moves the Court for an appeal to the Supreme Court from the Orders, Rulings and Decree of this Court herein, which said motion is granted; and it is ordered that appeal herein to the Supreme Court be allowed, and that the said Complainant return into Bond in the sum of Two Thousand and Five hundred dollars, with William A. Miller as his Surety; said Bond, the same to be filed within twenty days from this date.

(47.) And afterwards, to wit, on the 14th day of March A.D. 1860, the said Complainant filed his said appeal Bond herein, a copy of which is herewith attached, and marked)

And afterwards, to wit, on the 15th day of March A.D. 1860, it being yet one of the days of the March Term of the Boone County Circuit Court for A.D. 1860, the following proceedings were had and

Entrance of Record, & wit:

David H. Ball

vs.

Marcellus G. Leonard

} Bill for Injunction,

In Chancery

} And now on this day comes J.

A. Humbert and asks leave to place on the files in this Cause, the Affidavits of himself, Wellington Thompson & Marcellus G. Leonard Marked respectively A. B & C, which is allowed by the Court.

(133.) / And the said Affidavits being duly filed, copies thereof, are hereto annexed Marked and designated as "D." "B." "C." And are made a part of
(137.) this transcript =
(141.)

Attest: D. H. Minter, Clerk

And afterwards, & wit, on the 16th day of March A. D. 1860, It being one of the days of the said March Term of this Court for A. D. 1860, comes the said Complainant and files his Bill of Exceptions herein, which is in the words and figures following, & wit:

In the Circuit Court of Brone County
In Chancery

Daniel H. Ball

vs
Marcellus G. Leonard

Be it remembered that
on the 23^d day of January A.D. 1860, the
said parties appeared before the Hon. J. G. Wilson
at chambers in Geneva for the final hearing
of said Case in pursuance of Notice given
to said parties respectively by said Judge,
pursuant to the agreement of the parties
therefore made for that purpose. The
argument of the Case was postponed until
day the 24th. The Complainant then entered
his motion before said Judge to vacate the
Order therefor made at the September Term
of the Brone Co Circuit Court on the 24th day
of September 1859. and which order is in
the words and figure following:

" Daniel H. Ball

vs

M. G. Leonard

} Bill & Injunction

This day Comes the said parties by their
respective Solicitors and the Defendant enters his
motion for a dissolution of the Injunction herein
which motion is denied by the Court. It is
thereupon ordered by the Court that the Case be
referred to the master of this Court to take proof

herin and report the same to the Judge of this Court at Chambers by the 15th day of November next. and thereafter by agreement of parties Secrecy to be made and entered as of this Term

And in Support of said Motion read ~~to said~~ to said Judge the following Affidavits of Daniel H. Ball and John H. Ball to wit

Samuel H. Ball
vs.

} Boone County Circuit Court

Marcellus G. Irons

} In Chancery

When H. Ball first having been duly sworn on oath says that ever since September or October A.D. 1859 at the request of and by authority conferred upon him by said complainant, this deponent has acted for said complainant in said cause and has had the entire management and control thereof. That having prepared a Bill of Complaint in said cause being so authorized and empowered and at the request of said complainant, deponent applied to Stephen C. Hurlbut to put the facts and charges in said Bill of Complaint set up in his own language and handwriting, and to require by the prayer of said Bill of Complaint it to be drawn up by said Hurlbut that said Marcellus G. Irons and be required to answer all and singular the facts, averments and charges in said Bill of Complaint set up fully and perfectly and under oath,

That said Bill of Complaint was so drawn by said Hurlbut, was filed in said Court and an injunction was issued in accordance with the prayer thereof

That after the filing of said Bill of Complaint and before the September term of said Boone County Circuit Court, said Hurlbut stated to the deponent that said Irons would make a true statement

Accounts as to the money dealings between the parties herein and would take in satisfaction of the notes said Leonard then held against said Complainant, the principal sum and interest at two per cent^{um} per month, that this deponent at that time said to said Hurlbut in answer thereto that said Complainant would pay to said Leonard no more than legal interest, that said Complainant would abide such arrangement. Again after that time and before the fall Term of said Court said Hurlbut presented to this deponent a statement of accounts of said money ~~deals~~ dealings in the hand writing of said Hurlbut on the margin whereof there was a note stating that that statement included interest at twenty per centum per annum, said Hurlbut also stated to this deponent at that time that said statement included interest at twenty per cent per annum, and said that he said that but desired said Complainant to pay the same and that said Defendant would agree to settle in that way - That this deponent then said to said Hurlbut that said complainant would not pay twenty per cent per annum to said Leonard, and would not pay more than legal interest.

That afterwards and during the Sept. term of the said Boone County Circuit Court this deponent examined the files in said cause and

discovered an imperfect statement of account of
the dealings between said parties litigant with a
stipulation accompanying signed by said Harbut
as solicitor for said Daniel H. Ball, complainant
herein accepting said imperfect account in lieu
of a full, and formal ^{answer} therein. That as soon as
such fact was known to this deponent and at
the request of said Complainant this affiant
applied unto said Harbut that inasmuch as
said Complainant required the full and sworn
answer of said defendant in order to make
out his case, and in as much as said stipula-
tion had been made without the knowledge
or consent of said Complainant that said Har-
but give immediate notice to said defendant
and to the Court, and demand that said de-
fendant file a full perfect and formal an-
swer as by the Bill of Complaint in said cause
required. That said Harbut promised to this
affiant so to do, and said that he would give
immediate notice to the defendant of such require-
ment.

And further says this deponent that two
days thereafter and during said Sept. Term of said
Court this affiant asked said Harbut if he had
given the required notice and whether the de-
sired answer had yet been filed, that said
Harbut in answer thereto said that he had
given such notice to said defendant and
that said defendant would file the required
account and answer, and that he had no further to say thereon, alleging as

Answer - but said they have not done it yet. And "they had better be about it if they wish to make any progress this term". Said Hurlbut further said at that time to deponent that the court was then and would be until nearly if not quite to the close of the term occupied with criminal business, and that said complainant and deponent could safely go home and leave the matter to him - This deponent then said to said Hurlbut that said complainant and said deponent would go home but would return on Saturday following.

That on Saturday the last day of said September term of said court in the forenoon, said complainant and deponent were again in attendance on said court, and then learned that no answer had been filed in said cause, but that said cause had been disposed of for that term by agreement of said Hurlbut and the defendants herein as shown by the records and orders in said court.

That this deponent immediately thereupon applied to said Hurlbut and insisted that he should yet make the necessary statements and explanations to said court and require that the order in said case should be vacated and that said Leonore should be required to file the full and formal answer by said Bill of Complaint required, that said Hurlbut then promised to this deponent that he would do so - but that he failed so to do,

back when again a little while before the adjournment of said Court, this deponent again said to said Harburt that if he would not make said required explanation and statements to said Court and require the vacation of said Order and require a full answer in said Cause that some other person would do so. That said Stephen C. Harburt then called the attention of said Court to said Cause, and withdrew his appearance as attorney from said Cause and has not since acted as solicitor for complainant therein - *.

This deponent further says that after the adjournment of said Court on the last day of said Term, Mr. Thompson Defendant's Solicitor said that Defendant was willing to do so and would show to deponent all of his books of account, notes & vouchers relating to the matter in controversy in said Cause for the inspection of said deponent at any time said deponent would please to examine the same.

That this deponent some ~~few~~ ^{few} days thereafter did apply to said Thompson and request the shown for his inspection said notes, vouchers & books of account, and that said Thompson went with this deponent to the office of Marcellus G. Leonard aforesaid, in Behndon, for that purpose but the said Leonard then and there positively and absolutely refused to produce his said notes, books of account and vouchers, any part thereof, alleging

* which with a view of said Harburt from said cause took said complainant by surprise and said that within five or ten minutes thereafter said Court adjourned for said term giving an time to procure for said cause.

An excuse for such a case that he would not give said complainant access to his papers & books, to enable said complainant to make up his case. He said further at that time, "I will not place a club in your hands to pound me with" and that after having spent an hour or more endeavoring to persuade said Leonard to show said notes, books of account & vouchers to deponent for deponents inspection and being unable to get access thereto, this deponent left said Leonard.

And afterwards upon that same day in a conversation with said Thompson, said Thompson said to this deponent that there had been an agreement between said Thompson and said Harbut that if said Leonard would produce to him a full statement of the money transactions between said Leonard and said Daniel R. Hall that said Harbut would insist that said complainant should pay the same with interest at twenty per centum per annum, and if complainant would not do so, ^{that} the said Harbut would withdraw from the case, and if the court would allow, he would dismiss the said bill of complaint.

Wm R. Hall.

Subscribed and sworn to before me
Clerk of the Kane County Circuit Court
this 24th day of January A.D. 1860.

J. D. Wright, Clerk

"Filed March 13, 1860
J. D. Whitney clerk"

6,
Daniel H Ball
vs
Marcellus G Leonard

From County Circuit
Court In Chancery

Daniel H Ball the Complainant
herein first having been duly sworn on
oath say, that having procured a Bill of
Complaint to be drawn up he requested
and authorized John H Ball (deponent's brother)
to employ Stephen A Hund but to put said
Bill in his hand writing and language to file
to ~~file~~ such bill when drawn and to have
an injunction issued according to the prayer
of said bill, That said Bill of Complaint
was drawn by said Hund but, which is
the bill of Complaint filed this Cause.

And this deponent gave unto John H Ball
the full and entire Management of this
Cause and authorized him to act for deponent
herein, That by the said Bill of Complaint
the said Marcellus G Leonard defendant
herein was ^{ind} requested to answer fully as to
all the matters and things in said bill
of Complaint set up under oath.

That the said Stephen A Hund but
influenced by motives to deponent
unknown

made by said Kuntz and to request said Kuntz in as much as such agreement was made without the knowledge or consent and against the wishes and contrary to the interest of this deponent and without sufficient authority that he give immediate notice to the defendant herein and to the said Court of such facts and to require the defendant to file a good and sufficient answer under oath as by the said Bill of Complaint required,

That this deponent has been informed and believes that said John H. Pace did make such statement and demand to and from said Kuntz, and that said Kuntz promised to make such facts known to the said defendant and to require said defendant to answer fully and under oath to said Bill of Complaint That a few days thereafter during the session of said Court this deponent applied to said Kuntz in person and asked him the said Kuntz if said Leonard had yet filed the required full and perfect answer, That said Kuntz then and there stated to this deponent that he the said Kuntz had given the defendant notice but this deponent

was that Saturday with the arrangement made by said Hurlbut and said Thompson releasing the defendant from answering fully to said Bill of Complaint that this deponent desired a full and extended answer as by said Bill required, and said Hurlbut further said at that time and on that occasion that the said defendant had agreed to file the required full and formal answer but that the said answer had not yet at that time been filed. And further says this deponent that again as this deponent is informed and believes said John W. Ball required of said Hurlbut during the said full term of said Court and after the conversation between this deponent & said Hurlbut last herein stated, whether said required full and perfect answer had been filed and that said Hurlbut said that it had not but that he had given the defendant notice and said defendant had agreed to file the same,

That said Hurlbut further said to said John W. Ball at that time ~~that~~, that the defendant had so long neglected filing the answer and the Court had so much business that the case

54

Could not possibly be reached before the last day of that term and probably that then, that deponent and said John W Ball could go home & might come over to said Court at Schuylkill on Saturday the last day of that term

That said John W Ball & this deponent believing the statement of said Hurlbut and not doubting his sincerity did leave the said Court, and did not return there until Saturday morning the last day of that term, That upon the arrival of this deponent at said Court this deponent learned that the said Cause had been disposed of for that term in the absence of said deponent, and that no sufficient answer had been filed in said Cause, but that said Hurlbut had agreed that the proofs should be taken and a decree entered in said Cause on the 15th day of November AD 1859 as of that term of the said Court, that as this deponent is informed & verily believes said John W Ball at deponent's request immediately thereupon appeared to said Hurlbut and expostulated with him and endeavored to induce him to make the necessary statement and explanation to said Court and get on record that the said

order be vacated and that the said defendant should be required to file the answer as by said Bill of Complaint required that said Hurlbut again at that term promised to do so, but neglected and failed thereon. That said deponent believing said Hurlbut would make such application and explanation to the Court, waited until this deponent feared the Court would adjourn: when said JN Ball again at deponent's request in the Court House in Belvidere in said County in the presence but not in the hearing of this deponent desired said Hurlbut to make the necessary explanation and application to said Court and stated to said Hurlbut that if he would not do so, that the statement would be made by some other person and relief asked from the Court. That said Stephen A Hurlbut, then without the direction or consent of this deponent and without having given any notice of his intention to do the same did withdraw from said cause and did seek to assist the defendant to have the injunction dissolved in this cause thereby to allow the said defendant to procure

judgment to be entered up against
this deponent. upon the books several
notes in said bill of Complaint dis-
cribed which notes at that time amount-
ed to over Two thousand dollars to the
damage of this deponent as he truly
believes in the sum of thirteen hundred
dollars or thereabouts,

And this deponent further distinctly
and expressly states that he never authorized
said Hurlbut to confer with said defendant
or his Solicitor in relation hereto or to
stipulate or agree to release any of this
deponent's legal or equitable rights
in said Cause or to waive a full and
perfect answer in this Cause, That the
counsel or advice of said Hurlbut was
never asked or sought in said Cause by
this deponent but that the plans were
formed without his Counsel or advice and
he was only employed by this deponent to
execute said plans and appear in said
Cause and manage the same under the
direction of said John H Ball

And this deponent further says that he
is unable to fully prove except from the
full perfect and sworn answer of said
defendant the facts and charges in
said

Bill of Complaint contained, that said
 Leonard does not set forth in the Com-
 plaint and imperfect Statute of Account
 and shewn as an answer in this Cause how
 many Notes if any he holds against against
 this defendant, How many Notes of defendant
 if any he has assigned to other parties
 upon which defendant may now
 be liable, What if any thing was the
 Consideration of each Note, What are
 the payments thereon respectively, How
 many various Notes have been paid and
 cancelled, Which ones of said Notes
 were given for usury alone, Which for
 usury & Money and which for Money
 alone, What are the Notes of Interest
 Charged, How such interest was computed
 whether at simple or Compound interest
 How the payments made by defendant
 upon said Notes were applied - What was
 the actual amount of each payment
 endorsed on said Note when said endorsements
 do not shew the amount all of which facts
 and others in said Bill of Complaint
 set up can be shewn by this defendant only by the
 full perfect and sworn Answer of the said
 defendant, And this defendant further on oath
 says that during the entire business

transactions between said Leonard and this
deponent the said Leonard has sought
to destroy and cover^{up} all evidence of their
transactions, He has given to this deponent
no receipts for moneys paid and refused
and now refuses to produce the evidence
of said business transactions which this
deponent believes and has good reason
to believe is in his possession, That this deponent
believes that upon a full true and perfect
showing of their business transactions
he owes that owe unto said Leonard more
than six hundred ~~dollars~~ or seven hundred doll-
ars at the ^{utmost} ~~rate~~ including interest at legal
rate, And this deponent further says that John H
Ball has been since September AD. 1858. fully
authorized to act for him in said matters
between said Leonard and deponent and
this deponent has stated unto said Leonard
frequently that said John H Ball had such
authority and any act or acts of said
JH Ball for said deponent herein
would be as valid and binding as if
done with and by said deponent
in person, And this deponent further says
that from the facts and circumstances attending
the management of said Cause he ^{verily} ~~truly~~ believes that
he has been deprived and defrauded of his

his legal and equitable rights and remedies
by the acts and failures of said Hurlbut
at the instigation of said Leonard

That since the September term of said
Boone County Circuit Court of 1859. said
Hurlbut has not acted as the attorney
or solicitor of this deponent in said
Cause, and that on the last day of said
term without the knowledge or consent
of deponent said Hurlbut withdrew
from said Cause as this deponent alleges
and believes in pursuance of an agreement
between said Hurlbut and said defend-
ant. Corruptly made by said Leonard for his
his said Leonard's benefit and in fraud
of the rights of this deponent. This dep-
onent ^{says} that relying upon said Hurlbut's
statements to have said Order vacated
he was momentarily expecting said
Hurlbut so to act in the premises
when the Court ordered the Sheriff
to deliver said Court until Court in
course at which time John H. Ball in
behalf of this affiant arose in said
Court and explained to said
Court that this affiant was dis-
satisfied with said arrangement made
by said Hurlbut and in the name
of this affiant protested against the same

\$200

Belvidere, Ills. April 10 1858

Sixty Days after date, for value received,
 I promise to pay M. G. LEONARD, or Order,
 Two Hundred Dollars,
 with Interest at the rate of ten per cent per annum, being for borrowed money.

Fred H. Dibble

Daniel H. Ball

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted
 unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
 Two Hundred DOLLARS, made payable to the said M. G. LEONARD, or ORDER,
 and due..... Sixty Days after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof
 is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney
 of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my
 appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States,
 or elsewhere, either in term time or in vacation, at any time from and after the date hereof at the option of the said M. G. LEONARD, to
 waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the
 said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at
 the rate aforesaid, and 20 Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a
 Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any
 bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to
 release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby
 ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby
 further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State
 of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby
 waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on
 Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such
 Act had not passed.

Witness my Hand and Seal, this 10th DAY OF April A. D. 1858.

In Presence of

J. W. Lewis

Fred H. Dibble

Daniel H. Ball

STATE OF ILLINOIS, } ss. I,
 COUNTY OF BOONE,

In and for the said County, Hereby Certify that

who personally known to me as the same person
 who has executed the above instrument of writing, personally appeared before me this
 day of A. D. 1858, and acknowledged that signed, sealed,
 and delivered the same as free and voluntary act and deed. Given under my Hand and Seal

(3)

(3)

No 369

H. H. Dibble
D. H. Ball

Int paid 60 ds
" " 60

| | | |
|---|--|------------------------------|
|  | \$101 ⁷⁵ / ₁₀₀ | Belvidere, Ills. Feb 10 1858 |
| | Thirty Days after date, for value received, | |
| | I promise to pay M. G. LEONARD, or Order, | |
| | One Hundred & Fifty one ⁷⁵ / ₁₀₀ Dollars, | |
| | with Interest at the rate of ten per cent per annum, being for borrowed money. | |
| Daniel H. Ball
A. H. Powers | | |

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
 One Hundred & Fifty one ⁷⁵/₁₀₀ DOLLARS, made payable to the said M. G. LEONARD, or ORDER,
 and due.....Thirty Days.....after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and20.....Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this 10th DAY OF February A. D. 1858.

In Presence of

J. W. Lewis

Daniel H. Ball

SEAL

A. H. Powers

SEAL

STATE OF ILLINOIS, }
 COUNTY OF BOONE, } ss.

I,

In and for the said County, Hereby Certify that

who

personally known to me as the same person

who has executed the above Instrument of writing, personally appeared before me this

day of

A. D. 185

, and acknowledged that

signed, sealed,

and delivered the same as

free and voluntary act and deed. Given under my Hand and Seal

No 292

(4)

D. H. Ball
A. H. Powers

Just paid note

Extended 30 do

Extended 30 do

Extended 60

100 30

100 60 "

\$125

Belvidere, Ill. January 29th 1858

Thirty Days after date, for value received,

I promise to pay M. G. LEONARD, or Order,

One Hundred & twenty five Dollars,

with Interest at the rate of ten per cent per annum, being for borrowed money—

Daniel H. Ball

A. J. Powers

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted

unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....

One Hundred & twenty five DOLLARS, made payable to the said M. G. LEONARD, or ORDER,

and due.....Thirty Days.....after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and\$2.50.....Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 11th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this 29th DAY OF January, A. D. 1858.

In Presence of

J. H. Lewis

Daniel H. Ball

A. J. Powers

STATE OF ILLINOIS, }
"COUNTY OF COCOE," } ss. I.

in and for the said County, Hereby Certify that

who personally known to me as the same person

who has executed the above Instrument of writing, personally appeared before me this

day of

A. D. 185

and acknowledged that

signed, sealed,

and delivered the same as

free and voluntary act and deed. Given under my Hand and Seal

No 273 (5)

D. H. Ball

A. H. Powers

Int paid note
Extended 30 days

| | | |
|----------|----|------|
| Int paid | to | do |
| " | " | 60 " |
| " | " | 30 " |
| " | " | 60 " |

\$ 75.00

Belvidere, Ills. June 16 1858

Thirty Days after date, for value received,
 I promise to pay M. G. LEONARD, or Order,
 Seventy five Dollars,
 with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball
 A. G. Powers

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
 Seventy five DOLLARS, made payable to the said M. G. LEONARD, or ORDER,
 and due.....Thirty Days.....after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this 16 DAY OF June A. D. 1858.

In Presence of

J. W. Lewis

Daniel H. Ball

SEAL

A. G. Powers

SEAL

STATE OF ILLINOIS, }
COUNTY OF BOONE, }

ss. I,

in and for the said County, Hereby Certify that

who personally known to me as the same person
 who has executed the above Instrument of writing, personally appeared before me this
 day of A. D. 185 , and acknowledged that signed, sealed,
 and delivered the same as free and voluntary act and deed. Given under my Hand and Seal

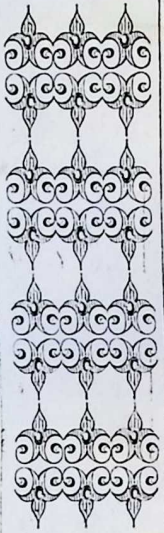
(4)

No 498

D. H. Ball

A. H. Powers

Just paid 20 do
" " 20 "



\$200

Belvidere, Ills. Oct 15 1857

Sixty Days after date, for value received,

I promise to pay M. G. LEONARD, or Order,
Two Hundred Dollars.

with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball

A. J. Powers

W. M. A. Miller

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
Two Hundred..... DOLLARS, made payable to the said M. G. LEONARD, or ORDER,
and due..... Sixty Days..... after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this Tenth DAY OF October A. D. 1857.

In Presence of

Daniel H. Ball

SEAL

A. J. Powers

SEAL

W. M. A. Miller

STATE OF ILLINOIS,
COUNTY OF BOONE,

ss.

I,

in and for the said County, Hereby Certify that

who personally known to me as the same person

who has executed the above instrument of writing, personally appeared before me this

day of

A. D. 185

and acknowledged that

signed, sealed,

and delivered the same as

free and voluntary act and deed. Given under my Hand and Seal

(7)

No 190

D H Ball

A G Powers

Int paid

Note Extended

30 days

to Jan 13th / 08

Int paid 30 ds

Ints " 30

" " 30

" " 30

" " 60

" " 30

" " 60

\$ ~~75.00~~Belvidere, Ill. May 26 1858Sixty Days after date, for value received,I promise to pay M. G. LEONARD, or Order,
Seventy five ⁴⁷/₁₀₀ Dollars,

with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
Seventy five ⁴⁷/₁₀₀ DOLLARS, made payable to the said M. G. LEONARD, or ORDER, and due.....Sixty Days.....after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of, One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE D. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and.....20.....Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering-up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this 26th DAY OF May A. D. 1858.

In Presence of

J. W. LewisDaniel H. Ball SEAL

SEAL

STATE OF ILLINOIS, }
COUNTY OF BOONE, }

I, a

In and for the said County, Hereby Certify that

who personally known to me as the same person
who has executed the above Instrument of writing, personally appeared before me this
day of A. D. 185 , and acknowledged that signed, sealed,
and delivered the same as free and voluntary act and deed. Given under my Hand and Seal



\$98.41

Belvidere, Ills. Sept 21 1858

Thirty Days after date, for value received,

I promise to pay M. G. LEONARD, or Order,
Twenty Eight 4/100 Dollars,

with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
Twenty Eight 4/100 DOLLARS, made payable to the said M. G. LEONARD, or ORDER, and due..... Thirty Days after the date hereof, with Interest at Ten per cent. per annum.

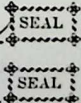
NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and..... 28..... Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this 21st DAY OF Sept, A. D. 1858.

In Presence of

J. W. Lewis

Daniel H. Ball

STATE OF ILLINOIS, }
COUNTY OF BOONE, }

ss. I,

In and for the said County, Hereby Certify that

who personally known to me as the same person

who has executed the above Instrument of writing, personally appeared before me this

day of

A. D. 185

, and acknowledged that

signed, sealed,

and delivered the same as

free and voluntary act and deed. Given under my Hand and Seal

No 672 (9)
D. H. Ball

\$52.90

Belvidere, Ills. Aug 14 1858

Fifteen Days after date, for value received,

I promise to pay M. G. LEONARD, or Order,
Fifty two 9/100 Dollars,

with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
Fifty two 9/100.....DOLLARS, made payable to the said M. G. LEONARD, or ORDER, and due.....Fifteen Days.....after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum, of One Dollar, to me in hand paid, the receipt whereof is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE D. HAMLIN, or any Attorney of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States, or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said M. G. LEONARD, to waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at the rate aforesaid, and.....21.....Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such Act had not passed.

Witness my Hand and Seal, this 14 DAY OF Aug. A. D. 1858

In Presence of

Daniel H. Ball



STATE OF ILLINOIS, }
COUNTY OF BOONE, } ss.

I,

in and for the said County, Hereby Certify that

who personally known to me as the same person

who has executed the above Instrument of writing, personally appeared before me this

day of

A. D. 185

, and acknowledged that

signed, sealed,

and delivered the same as

free and voluntary act and deed. Given under my Hand and Seal

(10)

No 617

D. H. Ball

Int paid to ds

\$200

Belvidere, Ills. June 18 1857

Sixty Days after date, for value received,
 I promise to pay M. G. LEONARD, or Order,
Two Hundred Dollars,
 with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball

A. G. Powers

Wm A Miller

Know all Men by these Presents, THAT WHEREAS, I the Subscriber, am justly indebted
 unto M. G. LEONARD, upon a certain Promissory Note, bearing even date herewith, for the sum of.....
Two Hundred DOLLARS, made payable to the said M. G. LEONARD, or ORDER,
 and due.....Sixty days.....after the date hereof, with Interest at Ten per cent. per annum.

NOW, THEREFORE, in consideration of the premises, and of the sum of One Dollar, to me in hand paid, the receipt whereof
 is hereby acknowledged, I do hereby make, constitute, and appoint FAYETTE B. HAMLIN, or any Attorney
 of any Court of Record, to be my true and lawful Attorney, irrevocably, for me, and in my name, place, and stead, to enter my
 appearance before any Justice of the Peace, or in any Court of Record, in any of the States or Territories of the United States,
 or elsewhere, either in term time or in vacation, at any time from and after the date hereof, at the option of the said M. G. LEONARD, to
 waive service of process, and confess a judgment in favor of the said M. G. LEONARD, or his assigns or legal representatives, upon the
 said Note, for the above sum, or for as much as appears to be due, according to the tenor and effect of said Note, with Interest thereon at
 the rate aforesaid, and2.....Dollars Attorney's Fees. And my said Attorney is also authorized in my behalf to file a
 Cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted, nor any
 bill in equity filed, to interfere in any manner with the operation of any judgment that may be entered by virtue hereof, and also to
 release all errors that may intervene in the entering up of the said judgment or issuing Execution immediately thereon. Hereby
 ratifying and confirming all that my said Attorney may do by virtue hereof, and for the consideration above mentioned, I do hereby
 further stipulate and agree that all right, interest, or benefit accruing to me by virtue of an Act of the General Assembly of the State
 of Illinois, entitled "AN ACT TO EXEMPT HOMESTEADS FROM SALE ON EXECUTION," approved February 17th, A. D. 1857, is hereby
 waived and released, and any property which I now hold, or may hereafter acquire, which would be exempt from levy and sale on
 Execution, by virtue of said Act, is hereby made subject to such levy and sale, by virtue of this agreement, the same as though such
 Act had not passed.

Witness my Hand and Seal, this 18 DAY OF June A. D. 1857.

In Presence of

J. W. Lewis

Daniel H. Ball

SEAL

A. G. Powers

SEAL

Wm A Miller

STATE OF ILLINOIS, }
COUNTY OF BOONE, } ss. I.

in and for the said County, Hereby Certify that

who personally known to me as the same person
 who ha executed the above Instrument of writing, personally appeared before me this
 day of A. D. 1857 and acknowledged that signed, sealed,
 and delivered the same as free and voluntary act and deed. Given under my Hand and Seal

(12)

70
W. Ball
H. Powers

Extended ^{Interest} ~~Interest~~

27 days Interest
time Extended

0 Days

paid

extended
days

paid note

extended 30 days

paid 30 do

" 30 "

paid 30 do

paid 30 "

" 30 "

" 60 "

" 30 "

" 60 "

\$ 243.⁰³⁵Belvidere, Ills. July 28 1859Ten Days

after date, for value received,

I promise to pay M. G. LEONARD, or Order,

Two Hundred & forty three ⁰³/₁₀₀ Dollars,

with Interest at the rate of ten per cent per annum, being for borrowed money.

Daniel H. Ball

(11)
No 817

11/20

181

181

181

181

181

181

All of which is duly certified to be true
Copies from the files of said Court.

Given under my hand &
the Seal of said Court at Bebridge in
said County, this 21st day of May 1860.

Daniel H. Whitney, Clerk,



At the March Term A.D. 1860 on the 1st day of March, the Complainant renewed his motion to vacate said Order, the Court overruled the motion, to which ruling of the Court the Complainant at the time excepted, and prays ^{this} his bill of exceptions may be signed & sealed in Open Court, which is done

Isaac G. Wilson Secy

"Filed March 16. 1860.

St. Matthew Clarke"

A.

Circuit Court }
Boone County }

March Term 1859.

To the Honorable Isaac G. Wilson
Judge of said Court sitting as Chancellor in &
for said County.

The Bill of Complaint of Daniel
H. Bull,

Humly complaining sheweth unto
your Honor your Orator aforesaid

That some time in the latter part of
the year 1856, or Early part of 1857 your Orator commenced
borrowing money from Marcellus G. Leonard of
Boone County, but the precise time and the amount
of the first ~~several~~ loans made to him he cannot
now state.

That from time to time from that date
until the month of February of this year 1859 your
Orator & the said Marcellus G. Leonard have had
frequent dealings together - And the precise times, dates
and amounts of said transactions your Orator is un-
able to state but expressly charges that the evidence
of the same is in the possession & power of said Leonard.

That when loans of money were made to
your Orator by said Leonard they were made upon
Notes at 30, 60 or 90 days payable to the Order of said
Leonard and at rates of interest calculated by
discounting from the face of said notes at the rate
of not less than three per centum per month
and as high as five per centum per month.

which thereby was ~~not~~ advanced:

And your Orator further shows that from the commencement of his said monied arrangements with said Leonard until the 10th September 1857, the rate of discount was three per centum per month - And from the said 10th September 1857 until the 19th April 1858 the rate of discount was five per centum per month And from said 19th April 1858 until the date of the filing of this Bill the rate of discount was three per centum per month.

And your Orator further states and shows to your ^{Honors} that by the course and practice of the transactions between your Orator and the said Leonard, if any of said notes so given by him were not paid at maturity and an extension of the ^{desired} ~~same~~ ^{same} was ~~desired~~ your Orator was compelled to give and did give his note for the advance interest at the rates aforesaid upon which was added in said interest notes the amount of interest upon interest at the rates aforesaid until the end of the period of said extension -

And your Orator further sheweth to your Honors that when at various times your Orator would pay to said Leonard or said Money Notes - the same would be applied by said Leonard & marked upon said notes "Interest paid" meaning thereby the receipt of advance interest at the rates aforesaid upon extensions of time of said notes -

And your Orator further shews that from time to time he paid and took up several notes given as aforesaid some of which he has now in his possession & others have been lost but how much and to what extent his said payments were he cannot state but avers that evidence of the same is in the possession of said Leonard.

(41.) That said Defendant Leonard is now in possession of and holds against your Orator Eleven Promissory Notes of various dates & amounts specifically set forth according to your Orator's best knowledge, information & belief in Exhibit A hereto attached.

That of said Eleven Notes amounting to the sum of about sixteen Hundred and thirty eight dollars on their face the real consideration therefor and the amounts actually received by your Orator according to his best belief, knowledge, and information was not to exceed twelve Hundred Dollars.

That of this sum and to apply on said notes your Orator has paid to said Leonard at least the sum of Five Hundred Dollars, but your Orator avers that although he cannot give the precise amount of the same either as to the consideration or the sums paid that the same can be made to appear if the said Leonard be compelled to produce said notes and also his accounts and to make discovery on oath.

That of said notes the following three
 One of \$75.47, dated May 26, 1858
 One of \$98.40 " Sept. 21, 1858
 One of \$52.90 " Aug 14, 1858

Are wholly made up of usurious and unlawful interest
 And that a considerable portion but how much your
 Orator cannot say of the residue, consists of like usurious
 & unlawful interest

And your Orator further shows to your
 Honor that there are no endorsements on said
 notes of any sums of money paid thereon except
 merely memoranda of interest paid

And your Orator further shows unto your
 Honor that each and all of the said ^{above} notes are subject
 to warrants of Attorney thereunder written by which said
 warrants of Attorney Judgment is authorized to be
 entered up in any Court having Jurisdiction upon
 said notes, for the amount thereof together with legal
 and onerous Attorneys fees thereon.

And your Orator further shews to your Honor
 that about the 28th day of February 1859 he made
 his certain other promissory note in favor of said
 Leonard for \$243.25 payable 10 days after date which
 note is wholly given for usurious interest, and
 which is now in the possession of Asa H. Powers -
 to whom the same was delivered by your Orator
 but which note your Orator fears that the said
 Leonard will obtain and use.

And your Orator further shows that under the manner and system practiced by said Leonard with your Orator, by loaning at high and usurious rates of interest as aforesaid, and making said interest principal and compounding the same, the indebtedness of your Orator has more than doubled, within the last twelve months, and the large amounts of money paid by your Orator within said time have made no impression upon the constantly accumulating mass of principal, interest and compounded interest now embodied in & represented by said notes.

And your Orator further sheweth to your Honor that he is willing to pay and has offered to pay to said Leonard the whole amount of money actually received from him upon said notes with the highest legal rate of interest thereon, without any reference to the large amount of usurious interest before then received and taken off your Orator by said Leonard prior to the making of said notes which said amount your Orator charges to have been not less than two hundred dollars, and your Orator is now willing & ready and hereby offers and tenders the sum of \$4 hundred dollars which he is ready to pay into Court as the largest possible sum that can remain due to said Leonard upon examination of his said accounts, or any other sum which may be ascertained to be due upon examination by the Court.

And your Orator charges and alleges that
 the evidences of the dealings between him and the
 said Leonard are chiefly in the possession and
 control of said Leonard and can only be
 made manifest by the sworn answer of said
 Leonard, and your Orator had well hoped that
 the said Leonard would have received said sum
 of six hundred dollars and delivered up &
 cancelled said notes and caused and per-
 mitted said Powers to surrender and give up
 the one in his possession, and would have set-
 tled and concluded this matter by producing
 his said accounts and vouchers striking a just
 balance according to law and receiving said sum
 in satisfaction. But now so it is, may it please your
 Honor, that the said Defendant, Marcellus Leonard
 and threatens, purposes and intends to cause and
 procure judgments to be entered up upon said
 notes not only against your Orator but his Co-sign-
 ers William A. Miller, Asa H. Powers, Blainbridge
 Dran and Amos Dibble - And to proceed to enforce
 collection thereof by process of law, And to compel
 not merely the payment of the said notes but also
 heavy costs and fees for the entry of said judg-
 ments - And also threatens and intends to ob-
 tain and procure of said Asa H. Powers the
 other note so left with him as aforesaid and
 compel collection of the same - All which actings &
 doings are contrary to Equity and Good Con-
 science, and tend to the manifest wrong and

that to the manifest wrong and injury of your
Orator.

In tender consideration whereof, And for
as much as your Orator is remediless in the premises
except in this Court.

To the end therefore that the said Mar-
cellus G. Leonard Defendant herein may by Pre-
liminary Injunction be restrained from entering
up Judgments on said Notes under Warrant of
Attorney, or Enforcing collection of the note de-
posited with said Powers, And that said Leonard
may fully, accurately and particularly discover,
Answer and set forth on his Corporal Oath
all and singular the transactions and dealings
as to money matters between him and your Orator
since the Autumn of 1856 - And produce
in Court for inspection his Books of account,
entries and Memoranda relating thereto - And
also the said notes and any vouchers, receipts or
entries of payment relating to said dealings -
And may distinctly and particularly on Oath
discover and set forth precisely and accurately
to time and amount each and every sum of mo-
ney by him loaned to your Orator, And at what
rates of interest or discount And when the same
was payable, And what sums have been by your Ora-
tor paid to him And when And on what account, &
how the same have been applied, And what was the
actual consideration each and every note now

held by him against your Orator either alone, or with
 Securities thereto, And may state, Set forth And Shew
 to the Court now here a sworn balance of account
 charging your Orator with all sums by him
 received, And ten per cent interest thereon,
 And giving Credit for all sums paid by your
 Orator at the times when paid; And that a full ac-
 count be had by the proper Officer of this Court & the
 Amount due be ascertained, And that upon pay-
 ment of the same into Court the said Defendant
 be decreed to Surrender up all evidences of debt ag-
 ainst your Orator, And that he may in all other par-
 ticulars fully answer the allegations of this Bill
 And that your Orator may have such other &
 further relief in the premises as to your Honor may
 seem meet And agreeable to Equity And Good Con-
 science. May it please your Honor to Grant unto
 your Orator a writ of Preliminary Injunction
 as heretofore prayed restraining the said Mar-
 cellus G. Leonard from further proceeding to enforce
 payment or collection of said notes, until the further
 Order of this Court, And also a writ of Summons
 Commanding him on the first day of the next
 Term of this Court to appear & in person on his
 Corporal Oath to answer all And singular the matters
 herein before set forth as fully as if
 therunto specially Interrogated, & a paper & bill
 by what your Honor shall seem meet in the Premises.

S. C. Hurlobst Solr.

Daniel A. Ball

State of Illinois
Boone County

Daniel H. Ball being duly sworn says
that he has read the foregoing Bill and knows
the contents, and that the same are true to the
best of his knowledge, information and belief of this
deponent.

Daniel H. Ball

Subscribed and sworn before
me this 13th March 1859



A. F. Naudall N.P.

Schedule of Notes referred to in Bill

| Date, | Amount, | Makers- |
|-------------------|-------------|--------------------------|
| 1857
Dec. 29. | \$ 400 + | D. H. Ball, W. A. Miller |
| May 26 | \$ 100 + | " " B. A. Dean |
| 1858
April 20. | \$ 200 + | " " J. C. Little |
| June 16. | \$ 75 + | D. H. Ball |
| July 29 | \$ 125 + | " " A. F. Powers |
| 1858
Feb 10 | \$ 161.75 + | " " " |
| Oct 15 | \$ 200 + | " " Powers & Miller |
| June 18
1858 | \$ 200. - + | " " " " |
| May 26 | \$ 75.47 + | D. H. Ball. |
| Sept. 21. | \$ 98.40 + | " " |
| Aug 11 | \$ 52.90 + | " " |

1859
Feb 28

Note left with A. F. Powers
\$ 243.25 -

" Filed March 16. 1859

D. H. Whitney, Clerk.

\$ 2.34

CA

"Filed March 16. 1859.

J. H. Maitrey, Clerk."

Injunct. ~~Attchd~~ writ 12

B.

State of Illinois } The People of the State of Illinois, &
Roane County } Marcellus G. Leonard, his Agents, Attor-
neys & Solicitors.

Whereas Daniel H. Bull has this day
filed in the Circuit Court of Roane County his Bill
of Complaint, praying among other things an
Injunction against you the said Marcellus G. Leonard
and to restrain you, your Agents, Solicitors and
Attorneys from certain things therein named
And the said Injunction having been allowed
by the Honorable Isaac H. Wilson Judge of said
Court at a Term of Court now sitting - as
appears by Order made of Record in said Court.
We therefore Command you the said Marcellus
G. Leonard that you do exist and utterly
refrain from proceeding to enforce payment or
Collection of any promissory notes heretofore given to
you by said Complainant by process of law or otherwise,
And from entering up Judgment thereon, until
the further Order of this Court in the premises -
And further to appear in person at the next
Term of this Court, then and there to answer
the said Bill - Herein fail not -

Witness Daniel H. Whitney Clerk of
our said Circuit Court at Beardsville
aforesaid this 16th day of March & the
Seal of the said Court.

Daniel H. Whitney, Clerk.

S. S.

"I have duly served the within writ by reading the same to Marcellus H. Leonard and delivering a copy thereof to him this 16th day March 1859.

Henry F. Fenison, Sheriff
By Charles Gaffney, Deputy."

"Fees

Service & Copy 1.00,

Mileage .10

: ret

.10
1.20. 11

\$0.30

B.

"Filed March 16. 1859.

D. W. Muttary, Clerk"

STATE OF ILLINOIS,
Boone County, } ss.

The People of the State of Illinois to the Sheriff of said County—Greeting:

We Command You that you summon

Marcellus G. Irons and

if he shall be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next Term thereof, to be holden at the Court House in Beardene County, on the Second Monday of September next, to answer unto

Daniel H. Ball

in his certain bill of complaint filed in the said Court on the chancery side thereof.

And have you then and there this Writ, with an endorsement thereon, in what manner you shall have executed the same.

WITNESS, Daniel H. Whitney Clerk of our said Court,
and the Seal thereof, at Beardene this
16th day of March A. D., 1859

S. S.

Daniel H. Whitney Clerk.

CHANCERY SUMMONS.

Boone Circuit Court.

In the matter of

Daniel H. Ball
vs.
Marcellus G. Leonard

Summons

Sept Term 1859 Term, 185

6

STATE OF ILLINOIS, }
Boone County } ss.

I have duly served the within writ by reading the same to

the within named defendant. Marcellus G. Leonard & delivering a copy thereof to him this 16th March 1859
H. J. Johnson, Sheriff
By Charles Goffing Deputy "

| | Sheriff |
|-------------------------------------|--------------|
| FEES—Service Term & Copy | 1.00. |
| Mileage | 10 |
| Return | 10 |
| | <u>1.20.</u> |

Filed in the Circuit Court this day of
185 .

Clerk.

Attorney.

828

L.

Know all men by these presents, that Daniel H. Ball and William H. Allen of Ball County and State of Illinois are held and firmly bound unto Marcellus G. Leonard, of the County of Boone in said State of Illinois, in the penal sum of Ten Thousand dollars to which payment well and truly to be made we bind ourselves our heirs, Executors & Administrators severally, jointly and severally firmly by these presents. Signed with our hands and sealed with our seals this fourteenth day of March A.D. 1859.

The condition of this above is such that whereas the above bounden Daniel H. Ball has filed his certain Bill of Complaint in the Boone County Circuit Court in Chicago praying that an injunction may be issued against the said Marcellus G. Leonard strictly commanding and enjoining him, the said Marcellus G. Leonard against collecting or causing any judgment or judgments to be entered up on certain notes in said Bill of Complaint mentioned, and whereas an injunction is now about to be issued by the said Court in accordance with the prayer of the said Bill of Complaint, Now therefore if the said Daniel H. Ball shall well and truly pay any judgment or decree that may be entered up upon the final hearing of said cause as well as any and all damages that may be awarded by the said Court in consequence

of the wrongful issuing of said injunction than
there presents the void otherwise of full force and
effect.

Witness our hands and seals at Detroit
DeRalt in said County of DeRalt this 14th day
of March A.D. 1859.

Samuel H. Allen *ESQ*
Mar H. Allen *ESQ*

"Filed March 16. 1859.

D. Whitney Clerk"

D.

42

150,28

Stipulation 14. 1857

M. G. Leonard }
vs }
D. H. Ball }
E. Boone Cir Co of Sept Term 1857
In Chancery

It is hereby Stipulated and Agreed
by and between the parties that the foregoing Statement
and Account when the same is duly sworn to by
said Leonard shall be deemed and taken as a
full and perfect answer under Oath to said Com-
plainant's Bill as to all the transactions and dealings
as to money matters between the said Leonard and
the said Ball from the 1st day of May A.D. 1857
up to the present date And also as to all other
matters & things charged in said Bill of Complaint
so far as the same may be material, the same
shall hereby be deemed & taken as denied as fully
and in all respects, as if an extended and
formal answer were put in by the Defendant
to that Effect

J. A. Hurdant

Comptroller

W. Thompson
Deft's Solr

E.

"Filed Sept. 24. 1859
J. H. Murray, Clerk"

apc 15

J. H. Ball ^{my}

1857.

In apc with M. G. Leonard

May

" 16. To Cash (note 39)

\$400.00

" 18. By "

37.20

" 26. To " (" 44)

100.00

" 26. By "

9.90

June 18 To " (" 70)

200.00

" 18 By "

12.60

August 15 "

18.00

Sept 7 To " (" 159)

50.00

" 7. By "

6.15

Oct. 15 To " (" 190)

200.00

" 15. By "

50.00

Sept 16. " "

18.00

" 20 " "

3.00

Nov. 24. " "

45.00

Dec. 12 " (" 39)

410.00

" 14. " " (" 159)

50.00

" 15. " "

15.00

29. To " (" 249)

400.00

~~1858~~
Jan 29 By "

20.00

1858
Jan 29 To " (" 273)

125.00

" 29 By "

57.25

Feb 10. To " (" 292)

161.75

" 10 By "

26.75

Mar 15 To " (" 329)

67.65

15 By "

67.65

April 10 To " (" 369)

200.00

57 " 10 By "

12.50

| | | | | | | |
|----------|-----|----|--------------------------|--------|-------------------|-------------------|
| April | 19 | By | Cash | (cont) | | 119.00 |
| June 16. | 16. | To | " | (495) | 75.00. | |
| " | 16. | By | " | | | 2.47. |
| | | | Cash Brought forward | | | 1979.40 974.47 |
| June | 16. | By | Cash. Due to Bal &c | | | 1004.93 |
| | | | | | <u>\$ 1979.40</u> | <u>\$ 1979.40</u> |
| " | 16. | To | Cash Due to bal not down | | | 1004.93. |

State of Illinois

Boone County

Marcellus G. Leonard being duly sworn deposes and says that the foregoing account is a just true & faithful statement of the dealings between this deponent and said Complainant as to the money transactions charged in Complainant's bill - And of all moneys paid by said Complainant ~~to~~ to this deponent, and of all moneys advanced by this deponent to said Complainant, without any calculation of interest, & that the dates therein set forth are accurate to the best of his knowledge, information and belief.

Subscribed and sworn to M. G. Leonard
before me this 3^d day of Sept A.D. 1859.

H. Wood Notary Public

No. 51

" Taken Sept. 24, 1859

J. H. Whitney

Clerk

G

| | | |
|---------------------------------|---------|----------|
| No 34 - May 18/57 | | 362.80 |
| Int to Aug 15/57 | | 8.77 |
| No 44 May 26/57 | | 90.10 |
| Int to Aug 15/57 | | 1.98 |
| No 70 June 18/57 | | 187.40 |
| Int to August 10/57 | | 2.96 |
| Less Amt paid Aug 10/57 | | \$654.01 |
| Int on above amt to Sept 16/57 | | 18.00 |
| | | 636.01 |
| | | 5.48 |
| | | 641.49 |
| No 159 Sept 7/57 | \$43.85 | |
| Int to Sept 16/57 | 10 | 43.95 |
| Less Amt paid Sept 16/57 | | 685.44 |
| Int to Sept 20/57 | | 18.00 |
| | | 667.44 |
| | | 74 |
| | | 668.18 |
| Less Amt paid Sept 20/57 | | 3.00 |
| | | 665.18 |
| Int fr Sept 20/57 to Oct 15/57 | | 4.62 |
| | | 669.80 |
| No 190 Oct 15/57 | | 180.00 |
| Less Amt paid Oct 10/57 | | 849.80 |
| Int to Nov 24/57 | | 30.00 |
| | | 819.80 |
| | | 8.89 |
| | | 828.69 |
| Less Amt paid Nov 24/57 | | 45.00 |
| Int to Dec 12/57 | | 783.69 |
| | | 3.92 |
| | | 787.61 |
| Less Amt paid Dec 12/57 | | 410.00 |
| Less Amt paid Dec 14/57 | | 877.61 |
| Int from Dec 14/57 to Dec 29/57 | | 65.00 |
| | | 812.61 |
| | | 1.48 |
| | | 814.09 |
| No 249 Dec 29/57 | | 380.00 |
| Int to Jan 29/58 | | 694.09 |
| | | 5.78 |
| | | 699.87 |
| No 273. - - - | | 118.75 |
| Amt paid Jan - - - | | 818.62 |
| Int to Feb 10/58 | | 45.00 |
| | | 773.62 |
| | | 2.57 |
| | | 776.19 |
| No 292 - - - | | 155.00 |
| | | \$931.19 |
| Amt Car'd for | | |

| | | |
|------------------------------|---------|-----------|
| Prot for | | \$ 431.14 |
| Leif Amt paid Feb 15/58 | | 20.00 |
| Int to Apr 19/58 | | \$911.14 |
| | | 17.46 |
| No 364 Apr 19/58 | | 187.50 |
| Int on \$187.50 to Apr 19/58 | | 47 |
| | | 1116.62 |
| Leif Amt paid Apr 19/58 | | 119.00 |
| Int to March 19/59 | | 497.62 |
| | | 91.39 |
| No 495 June 16/58 | \$72.53 | 1089.01 |
| Int to March 19/59 | 5.246 | 77.99 |
| Int to March 19/60 | | 1167.00 |
| | | 116.70 |
| | | 1283.70 |
| 6. days Int out. | | 1.81 |
| | | \$1281.89 |

G.
 "Filed March 13. 1860

J. H. Matney, Clerk."

1817

Notes to parties, after before
Hunt

H. Brown Cir Co.

D. H. Ball

vs

M G Leonard

} In Chancery

I have an order of reference
in this cause dated the 10th day of
November A D 1859. I do appoint Monday
the 14th day of November instant
at One o'clock P M at my office in
Bedford to consider of ^{the} matter referred
at which time and place all parties
are to attend

Dated Nov 11, 1859

J B Hamlin

Master in Chancery

5088

No.

"Filed March 18. 1860.

D.W. Whitney"

D.

Boone County Circuit Court
Sept Term 1839. Saturday
Sept. 24. 1839

Daniel A Ball

In Chancery

W. Senard

Bill of foreclosure & injunction

This day Comes the said parties
by their respective Solicitors and the defendant
intends his motion for a dissolution of the Injunction
herein which motion is denied by the Court
It is therefore ~~ordered~~ ^{by} Ordered by the Court that this cause
be referred to the Master of this Court to take
proof herein, and report the same to the Judge
of this Court at Chambers by the 10th day of November
next. And thereafter by agreement of parties. Decree to
be made and entered of this Term.

State of Illinois
County of Boone

I Daniel H. Whitney Clerk of the
Circuit Court in and for said County & State aforesaid,
do hereby Certify that the foregoing is a true
& correct Copy of an Order made in the above
entitled Cause in said Court on the 24th day of
September last being one of the days of a regular
term of said Court then being held at the Court
house in Belvidere in the County aforesaid

D. H. Whitney

In Testimony Whereof I hereunto Set my
hand & Affixed the seal of said Court at Belvidere
this 10th day of Nov A.D. 1839

D. H. Whitney Clerk

Daniel H Ball
vs
Marcellus G. Leonard

Boone County Circuit Court

In Chancery

Marcellus G. Leonard the defendant in said Cause will please take notice that on Thursday the tenth day of November next before Fayette B Hamlin Master in Chancery at his Office in Belvidere in said County at one O'clock in the Afternoon the said Complainant will proceed to take the Deposition of Joel H Dibble Austin Powers, Charles Powers, Asa F. Powers Marvin Dibble, Stephen A. Hurlbut, George S. Woods, J W Garvin, Joseph W. Foster and John H Ball, and will continue from day to day to take the same, until the same are taken. You the said Leonard will also take notice that no Attorney or any other person besides myself is authorized to receive or accept service notice of any kind in said Cause Belvidere October 14, 1859-

Daniel H Ball

State of Illinois }
Boone County } ss

Asa H. Powers, first having
been sworn on oath says that

On the Eighth day of October Ultimo he
served the within notice upon (Marcellus G.
Leonard) in Belvidere by delivering to him
a true copy thereof Belvidere Nov 10th 1859

Sworn Subscribed before

Asa H. Powers

me this 11th day of November

A.D. 1859 J. B. Hamlin J.P.

State of Illinois
Boone County

19 2
The People of the State of
Illinois unto Marcellus G

Leonard - Greeting You are hereby Commanded
to bring before Fayette B. Hamlin Master in
Chancery in said County at his Office
in Belvidere in said County on Thurs
day the tenth inst at Eleven O'clock in
the forenoon the following described notes
to wit: One note dated Dec 29, 1857 for \$400.

" " " May 26 1857 for 100.

" " " April 10 1858 for 200

" " " June 16th 1858 " 75

" " " Jan 29th 1858 " 125

" " " Feb 10 1858 " 161²⁵

" " " Oct 15 1857 " 200.

" " " May 26 1858 " 75⁴⁷

" " " Sept 21 1858 " 98⁴⁰

" " " Aug 14 1858 " 52⁹⁰

" " " Feb 28 1859 " 243²⁵

" " " June 18 1857 " 200

All of which notes are signed by Daniel H.
Ball and are made payable unto you or your
Order. And all other notes, receipts, bills of exchange
Vouchers, memorandums of account and all other
papers in your possession or subject to your
Control bearing upon in any way or relating
in any way to a certain Cause in the Circuit
Court of said Boone County in Chancery

Wherein Daniel H. Whitney is Complainant,
and you the said Marcellus G. Leonard
are Defendants, to be inspected and used
as Evidence in said Cause, and this you
will not omit under the penalty of the Law

SS In Testimony Whereof I
have hereunto set my hand
And Affixed my Official Seal
this Eighth day of November
A. D. 1859—

Daniel H. Whitney
Clerk

State of Illinois }
Boone County } ss Joseph M. Foster first
having been duly sworn on
Oath says that on the ninth day of November
Instant he served the within writ upon
Marcellus G. Leonard in Belvidere by
delivering to him a true Copy thereof
Belvidere Nov 10th 1859

Sworn Subscribed before
me this 10th day of October
A. D. 1859

J. M. Foster

F. B. Hamlin

Daniel W. Ball } Int Boone Cir Court
vs }
Marcellus G. Leonard } Depositions of Witnesses produced
} sworn and examined in the above
Cause on the part of the Complain-
ant. November 11th 1889 The parties by their
respective Counsel met in the Office of Fayette
B Hamlin (Master in Chancery in pursuance
of the notice hereupon Attached Whereupon

Asa F. Powers being duly sworn on oath says

Int 1st What is your name and age & Occupation

Ans My name is Asa F Powers I am 37 years old
I am a Farmer by Occupation and other Con-
cerns attached to it

Int 2 Are you acquainted with the parties to this
suit, if so, how long have you known them and
where did you know them

Ans I am acquainted with the parties, have known
them some 12 or 15 years, knew Mr Leonard in
Belvidere & Mr Ball in DeKalb County in
this State -

Int 3^d Are you acquainted with the matters in
controversy in this cause -

Ans Somewhat

Int 4th What do you know of the dealings of the

parties in this case (objected to)

Ans I know they have done considerable dealings

Int 5th Do you know or do you not know that there has been any money borrowed by the Complainant from the defendant, if so where and what amount

Ans I do know there has been, at different times and different amounts

Int 6 Do you remember the different times and different amounts?

Ans I do not.

Int 7 About what time ^{did these} money transactions commenced.

Ans About three years ago I should think it might have been a little longer & it might not have been so long.

Int 8 When money was borrowed by Daniel H Ball the Complainant from the Deft herein did Ball or did he not give his notes therefor

Ans He did.

Int 9 What kind of notes were they.

Ans Judgment Notes.

Int 10 Do you know how many such notes were given by the Complainant to the Defendant herein.

Ans I do not, there were several I don't know that I could state the number

Int 11 How many notes do you think there were

Ans ^{given} I should think there were six or eight in all

Int 12 Can you swear there were no more than six notes

Ans I can not, I recollect of signing and seeing six or eight.

Int 13 How soon after date thereof were these notes made payable

Ans There were different dates and times they were due, some thirty day, some sixty and, think there was one ninety days

Int 14 Do you know what rate of interest was discounted from these notes

Ans Three per Cent per month, till about two years ago, then through that winter afterward five per cent per month

Int 15th When these notes were not paid (if they are not) how were they extended

Ans The interest paid, and written on the back of the notes extended

Int 16 When the interest was not paid how was the extension made

Ans I have known him to give a new note for the interest

Int 17 Was or was not the interest paid in advance either in money or notes (apart to)

Ans It was

Int 18 Do you mean the interest on the money

transactions between the parties herein represented by notes as you have stated in your answer to interrogatory Eighth (Objected to)

Ans I mean the interest between the parties as I have stated -

Int 19 Did or did not the notes given for interest bear interest from date, and if they did at what rate? (Objected to.)

Ans They did bear interest at ten per cent

Int 20 Was or was not interest added into them as principal and if so at what rate. (Objected to)

Ans I think it was, It was either three or five per cent -

Int 21 Do you mean to say three or five per cent per month, or per annum (Objected to)

Ans Per Month.

Int 22 Were you not present at an interview between the parties herein at the residence of Daniel H. Ball, Complant in February last

Ans I was.

Int 23 What if any thing relating to the matters in Controversy herein were done by the parties herein at that time and place

Ans Int was figured up and a note given and placed in my hands for ten days

Int 24 What was the Amount & date of that note?

Ans The Amount was two Hundred & fifty some

dollars. I think dated last February
I Can't tell the day

Int 25 How soon after the date thereof was
it made payable

Ans I think it was ten day I would not
be certain

Int 26 Did or did you not holde that note
in your possession until after the maturity
thereof (Objected to)

Ans I did.

Int 27 How long did you holde that note in
your possession

Ans I think I holde it some fifteen or twenty
days—

Int 28 What kind of a note was that?

Ans It was just a Common Ordinary note

Int 29 Was or was there any endorsement on that
note while in your possession

Ans Not any—

Int 30 Did or did you not deliver that note to Mr
Leonards the defendant herein (Objected to)

Ans I did.

Int 31 To whom did you deliver that note

Ans To Mr Leonards

Int 32 What if anything was the Consideration
of that note

Ans I don't understand the question

Int 33 Do you know for what that note was given.

Ans It was given for Int. betw. the parties

Int 34 What was the relative position of the parties in that transaction? Which was Creditor and which was debtor? (Objected to)

Ans Ball was owing Leonard

Int 35 Do you or do you not know whether this note given for interest on that indebtedness from Ball to Leonard? (Objected to)

Ans It was

Int 36 At What rate of Interest?

Ans Three per Cent per month

Int 37 Do you or do you not know whether in that interview Mr Leonard made or had not in his possession any notes against R. A. Ball

Ans He made -

Int 38 Do you remember how many

Ans I do not there was a number

Int 39 What if any thing did Mr Leonard say in regard to those notes

Ans He said he wanted his pay on the notes

Int 40 Did he pay nothing more at that time and place in reference thereto

Ans Yes Sir, there was a good deal said

Int 41 Will you tell what was said, at that time and place by Mr Leonard

Ans Leonard said he would give him time if he would secure him, there was so much said I don't know what was said Altogether

Int 42 Do you remember whether anything was said at that time & place as to whether the notes

21
that Mr Leonard then held, in his possession represented all the claims that Mr Leonard had against Daniel H. Ball (Objected to)

Ans I think the amount of the demand was all in notes. I saw them figure up the demand and interest.

Int 43 Was it figured up from the notes that Mr Leonard then held at that time and place in his possession

Ans It was -

Int 44 Were or Were not these notes at that time all past due -?

Ans They were, except the note that was drawn there and put into my possession

Int 45 Were you ever present when Daniel H. Ball paid any sums of money to Mr Leonard -

Ans I was -

Int 46 Can you say at what time, and in what amounts

Ans I could not give any dates. I have been with him several times when he has paid in money on interest, and seen Ball pay up and take up notes -

Int 47 How many notes did you ever see him pay & take up from Mr Leonard -

Ans Some three or four -

Int 48 Do you recollect of being present when Daniel H. Ball paid Leonard to apply upon interest any specific amounts, if so - what was those amounts?

Ans I was present several times - the amount I

Could not say.

Int 49 Did you ever see Daniel H. Pace pay him more than fifty Dollars at any one time to Apply upon interest

Ans I could not say as I did. I think I saw him pay Mr Leonard fifty three dollars one day. I was in with him. It was the day he raised his interest on him from three to five per cent.

Int 50 Was that payment of ~~September~~ Fifty three dollars for interest (Objected to)

Ans That payment was for interest. I do not say it was Fifty three Dollars.

Int 51 For what length of time were these notes exten-

Ans I could not say.

Int 52 How Often were these notes figured up And the interest paid or a new note given therefor

Ans Sometimes longer & Sometimes shorter. Sometimes the notes were past due before he came to attend to them

Int 53 What was the longer And what was the shorter time

Ans I have stated before I could not say.

Int 54 As nearly as you can remember at what length intervals was the int figured up paid or a note given therefor

Ans As near as I can remember, I could not state the exact time. It would run from 30 to 190 days. Sometimes it was figured up.

in 30 days & sometimes it run longer & might run even longer than 90 days & until after the notes became due

Int 52 Was the interest compounded at those intervals? (Objected to)

Ans I believe it was

Ans F Powers Exp Examined on the part of the Defendant

Int 1 How do you know when the money dealings between Ball & Leonard commenced

Ans The first knowledge I had of their dealings I went to the Bank to sign a note with him

Int 2 When was this. State the day

Ans I could not state the day - It nearly three years ago -

Int 3 How much was the note you signed

Ans I think it was three hundred dollars to the best of my recollection

Int 4 How many did you sign with Ball to Leonard got by Ball (Objected to)

Ans I could not state the number - probably 5 or 6 notes.

Int 5 Do you mean to say by your Answer to interrogatory 11th that Ball has not given to Leonard, or that Leonard has not had in his hands against said Ball more than that number of notes at any one time (Objected to)

Ans I dont mean to say that was all the notes he had. He might have many more notes in his hand that I did not know about.

Int 6 What was the date and Amount of the note payable in 90 days and who signed it.

Ans I Cant give the date, I think the note was \$300. I think Daniel H. Ball & myself signed the note, but would not be positive.

Int 7 Can you give any description as to dates and amounts of those notes upon which interest was received by Leonard & Extended, & endorsed on the back.

Ans I would not be positive of any dates. I recollect of One note being given two years ago this fall. That note I think was \$200.00 given on less days.

Int 8 Can you describe the notes or tell the amounts thereof, into which interest was put as part of the principal.

Ans I can not.

Int 9 What Amount of money or notes was given by Ball to Leonard on a Calculation of interest at 5. per cent per month? (objected to)

Ans I saw him pay I think \$53.00 It was the time he raised interest from 3 per cent to 5. per cent per month.

Int 10 Upon What Amount of notes was this Computed.

Ans I Could not say the Amount, it was at the time.

22 5
he got a note discounted of \$200.00 I mean
by Mr. Ball.

Int 11 Are you sure that note he got discounted
was not four hundred Dollars

Ans I am pretty it was not

Int 12 Give the date of the note as near you can?

Ans I should think it was two years ago in
September or October last -

Int 13 Who signed said note.

Ans I think myself & Mr Ball

Int 14 What is the amount of Ball indebtedness
to Leonard in Feb'y 1859 if you know?

Ans I think Mr Leonard claimed \$190.30

Int 15 Did you make or keep any memorandums
of the amount of money Ball received of
Leonard or of his payments to Leonard
on the various times you have spoken of or do
you speak only from general recollection

Ans I kept no memorandums I speak from general
recollection -

Int 16 Were you present at all times Ball got
money from Leonard and gave note therefor
(Objected by Complainant)

Ans I suppose not.

Int 17 At the various times you were present and
saw Ball pay Leonard money as interest was
such payment Endorsed on Ball's notes

Ans The amount put in the note; it states on the
note interest paid for a given length of time

Int 18 Have you any means of telling the amount of money received by Ball of Leonard since their dealings begun or of the amount of money paid by Ball to Leonard either of principal or interest if so state ^{the} fully.

Ans I have no means of telling except from my own knowledge what I have seen him receive and what I have seen him pay, as for the full amount I don't pretend to say what it is

Int 19 Please explain what your memory is in answer to 50th direct interrogatory

Ans I mean to say it was paid for interest but don't mean to say fifty three dollars, but according to the best of my recollection it was fifty three dollars

Int 20 How do you know that this payment of \$53.00 was for interest

I heard them say this payment was for interest and I saw them figure up the notes, there were several words past between them on account of raising the interest.

Int 21 Did you see any endorsements on notes or notes at this time (Objected to)

Ans I could not say I saw any endorsements they had their notes there I signed one new note at the time.

Int 22 Have you any interest in the result of this cause? (Objected to)

Ans I don't consider I have

Int 23 How many of the notes in the defendants hands were signed by you by (Mr Ball and the gross amount of the same. (Objected to)

Ans I should think five or six notes, I cant state the amount, It may be some Twelve hundred Dollars

Int 24 Dont you understand or Consider that the amount to be recovered on these notes is embraced in this suit. (Objected to)

Ans Yes Sir -

Mr Powers Examined on the part of Complainant

Int 1 You state you signed a new note, what was the amount, date & Consideration of that note -

Ans I could not state the date. I think the amount was \$200.00 and giving for money I think he paid \$50.00 for interest on other matters -

Int 2 Are you a party in interest to this suit

Ans I am not -

Sworn & Subscribed before me this 11th day of November

A D 1859; F B Hamlin

Master in Chancery

Asa. F. Powers

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Counsel for Complainant A. F. Randall Esq
demands of Defendants Attorney the production
of papers named in a subpoena. hereto attached
Marked Schedule "A"

Defendants Counsel refuses to produce any
papers until after the Depositions are taken

John H Ball a Witness on the part of
Complainant being produced & sworn on Oath & says

Int 1 What is your name age and Occupation

Ans My name is John H Ball age thirty two
years. was formerly Merchant & distiller, but
at present in no active business

Int 2 Are you acquainted with the parties to this
Cause if so State how long have you known
each of them respectively and where did you
know them.

Ans I am acquainted with the parties. Daniel
H. Ball is my Brother. Mr Leonard I
have known in Belvidere five or six
years

Int 3 Do you know of any money transactions between
D. H. Ball, Complainant & Mr Leonard de-
fendant. If so State when the same commenced
how long they continued and what they were

Ans I do not know of any money transactions between
the parties, except from conversations I have had
with the parties, and from notes and papers &

books of account that I have seen relating thereto. This is all I can answer to this question.

Int 4 When and where were these Conversations held, and with whom were they had & what was the subject of the same given them fully.

Ans In Nov or Dec 1858 at the request of Daniel H Ball I called on Mr Leonard at his Office in Belvidere to get a Statement of account, and also to see if Mr Leonard still held D H Balls notes. And also to see what amount of Interest at the rate he was then paying, was then due to Mr Leonard. I did see the notes then were Eleven & when they were judgment notes. Most were secured by the endorsements of one or more parties. None of the notes were at that time signed they were all pass due, the clerk in the Office of Mr Leonard, figured up the interest upon them at three per Cent per month or on a proposed Extension of thirty ^{or 30 days} days and proposed to take a new note, at 30 days & added in interest at 3 per Cent as principal. (Answer objected)

Int 5 Did or did you not at any other time or times have any other Conversation with the Reft relative to the money transactions between the parties if so State when and where and what was said by the Reft. State fully.

Ans On the 28th day of Feb'y 1859 I saw Mr

Leonard at the residence of my Brother
D.H. Ball in D. Hart County. I had some
Conversation with him in presence of Daniel
Mc Ball (Mr Leonard then held in his
hands in his possession eleven notes against
D.H. Ball & proposed to me to Calculate
the Int on the notes & see how much they
amounted to at that time, Mr Leonard
took the notes one by one, read them over
dates and amounts, as he did so I wrote
them down There was one Note Dated June
29 1858 for \$125.00 - One note dated Feb 18th
1858 \$161.75 - One dated April 10th or 16th 1858
\$200.00 One Dated June 16th 1858 \$75.00 -
May 26th 1858 \$75.47 June 18th 1857 \$200.00
May 26 1857 \$100.00 October 15 1857 -
\$200.00 Sept 21st 1858 \$98.40 - August 14th
1858 \$52.90 December 29th 1857 \$400.00
We Calculated the int. on those notes from
the time of the last payment of Int. at three
per cent per month It amounted to \$243.²⁵/₁₀₀
for which D.H. Ball at that time gave Mr
Leonard his note. That note was delivered
to Asa J. Powers to hold till after it was
matured - I made a memorandum at the time
I wish to make one correction in date - I
said November or December I sent Mr Leon-
ard, in Belvidere. I now think it late
in December or January -

Int 6 Did you here Mr Leonard, at any time during the Conversation on February 28th 1859 say what the Consideration of Each of the above named notes was, whether any one, ^{or} part of any one of them was given for interest, if you state which one or ones was given for interest or what part of any one or more of them at what rates & upon what he said. Said interest was Computed. State fully

Ans I do not recollect that anything was said about the Consideration of the notes at that time

Int 7 Have you at any other time had any Conversation with Mr Leonard or any one in his employ or been present at any Conversation between Mr Leonard & Mr Ball in which the Consideration of any one or all of the above notes was Spoken of by Mr Leonard or Mr A. H. Ball in his presence if you. When Where and What was said if anything relative to the Consideration thereof. (Write to)

Ans I have had many Conversations in pres. of Mr Leonard in reference to this matter at different times & places. He talked about these Notes. Some of them as interest Notes. Some money notes. & some of them being for both interest and money. The Note dated February 28th 1859 \$243.25. August 14th 1858 \$52,90 Sept 21st 1858 \$98,40

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And, I believe the notes dated May 26, 1858 \$75.47 were always spoken of as interest notes. The note dated Jan^y 29, 1858 for \$125.00 also one note dated February 10th 1858 were given for part money and part interest. The other notes I was told by Mr Leonard or Mr Lewis in his Office were given for money, but for a larger sum than was actually received. The notes being discounted at the rate of three or five per cent a month. This conversation was had, a part of it in Mr Leonard's Office between myself as agent of Daniel McBall and Mr Lewis Clerk of Mr Leonard but generally of Mr Leonard's presence (Answer Objectors)

Int 8 Do you know what was the rate or rates of Interest charged on discount if any made upon the different notes at the times the loans for which they were given were made & in what manner the discount (if any) was made, if so state your means of knowledge such facts and at what rate or rates such interest or discount were charged and in what manner it was made. State fully

Ans From the Commencement of the transactions up to the 10th day of September 1857 the rate of Interest charged was three per cent per ~~annum~~ month from that time up to the 19th day of April 1858 the rate of Interest was 5 per

cent per month. From that time until the close of the transaction the rate was 2 per cent per month. The interest was always charged in advance and when not paid was compounded every 30, 60, or 90 days. These facts I learn from various ~~considerations~~ ^{considerations} that I have had with Mr Leonard, this agent in his Office. (Answer Objected to)

Int 9 Do you or do you not know in whose possession any or all the above discounted notes are at this time. I so State

Ans I Cannot say that I know where the notes are. But Mr Leonard professes to have the notes, but refuses to produce them. (Objected to)

Int 10 Were you acting as Agent for D. H. Ball in this matter between him & Mr Leonard if so State when you were appointed such Agent, and also what was the Extent of your Authority to act for him. (Objected to)

Ans I did act as Agent for Daniel H. Ball at his request in this matter. I was fully authorized to manage this matter according to my own judgment and discretion. My Authority was given me before the Commencement of this Action. ^{Int 11} Have you at any time ever made any demand upon Mr Leonard for the production of any notes, Books of Accounts, Vouchers, &c, relating to the matters in Controversy between D. H. Ball & Mr Leonard,

if so State when and in what capacity
and for whom you made such demand
for what purpose (Objected to)

Ans About one month since I demanded
of Mr Leonard in his Office in Belvidere
to inspect the notes and Books of Account
of Mr Leonard relating hereto because it was
impossible for Daniel Mc Ball to arrive at
the sums of money that he had paid to Mr
Leonard as interest without having access
to the Endorsements of payments of interest
on the notes. The Counsel for the Debt Mr
Thompson had told me a few days before
that time that by calling on Mr Leonard
at his Office these notes &c should be open
to inspection. Mr Leonard refused absolutely to
produce these papers for my inspection I was ac-
ting at that time as agent for D H Ball which
fact was known to Mr Leonard again on the
10th inst between the hours of 11 & 12 o'clock
in the forenoon in the Office of F B Hamlin
in Belvidere I demanded these notes books
of account &c before commencing to take
depositions of witnesses. They were not produced.
Again between the hours of Two & Three in the
afternoon of the same day a like demand
was made, Mr Leonard did not comply.

Int 12 At any of the above times in which you
have made a demand upon Mr Leonard

for the production of the notes, books of account &c relating to the matters between Mr Leonard & D. H. Ball were the same produced, or not, if not state the reason therefor

Ans I have said they were not produced, Mr Leonard said, he would not produce them to enable us to make up our case Mr Thompson or Mr Leonard, remarked, no Ball we have got you tighter than a brick now.

Qnt 13 For what purposes, did H Ball wish to see those accounts and notes. State fully. Objected to.

Ans Daniel H. Ball had, no memorandum of the amounts he had paid Mr Leonard on interest and as at the time of each payment a formal endorsement was made upon the several notes, showing the payment of the interest the length of time for which the interest was prepaid and the date of the several payments of interest. It was necessary for Daniel H. Ball to have access to these notes with endorsements thereon, in order to make up his accounts of money paid to Mr Leonard. He had no other accounts or memorandum of money so paid, & desired the production of these notes with other collateral evidence to enable him to arrive at a full and perfect statement in detail of all the

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Int 14 matters in Controversy herein. (Objected hereto)
Do you know any other matter or things
touching the matters in question in this
Cause which may tend to the benefit or
advantage of the said Complainant therein
if Yes. Set forth the same and all the Cir-
cumstances and particulars thereof fully ac-
cording to your knowledge, remembrance and
belief as if you had ~~been~~ thereto been particularly
interrogated

Ans— I don't think of any thing new bearing further
upon the Case. I wish to be distinctly un-
derstood that I know nothing in relation
to the money transactions in this matter and
of the dealings between the parties except by
the Statements of the parties, their Conversation
from my observation of the notes, Books of
Accounts & other papers relating hereto
The Statements, the Conversation & State-
ments of Mr Leonard and not of Mr
H. Ball. I know of nothing ^{more} without it
be to show the manner in which the
Defendant herein avoided answering
Complainant's Bill of Complaints, at
the time just before the Commencement of
this action. Mr Ball and myself hav-
ing prepared this Case Applied to
J. A. Harbut Esq. to put in his own hand
writing and Language a certain Bill

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of Complaint that brought him ready prepared. He was Employed by myself for Daniel H. Ball to appear as attorney in the Case. No advice or Counsel was asked of him, and no Authority was given him to make any Arrangement whatever in the Case. He desired a few days after the Commencement of the Case that D. H. Ball should compromise with Mr Leonard and pay him Int at 2 per cent per month. Again a few days afterwards he desired that my brother should pay Mr Leonard 2 per Cent per annum to both of which propositions I objected, told him my brother would pay no more than ten per Cent. I being on the first day of the last Term of the Court. I examined the Records to find the Answer of Mr Leonard, in this case I found no Answer, but found a Stipulation signed by Mr Hurlbut releasing the Deft. for filing a full & perfect Answer in the Case as required by the Bill. Then was filed a Condensed and imperfect Statement of Account which M. Hurlbut had stipulated should be received in lieu of the answer required by the Bill. I require of Mr Hurlbut immediately as he had no Authority to do so to require of Mr Leonard an Answer.

to the Bill he promised to do so, and
told me he had made the application
That the Answer would not be filed
till late in the term and that D. H.
Ball & Nitrofs could go home until
Saturday. On Saturday morning I was again
in attendance of said Court with my Brother
ex. Hounde that no application for a full
Answer had been made by Mr Hurlbut but
that the Case was disposed of for the term
Mr Thompson told me a few days after
the term that there was an agreement of
some kind between Mr Hurlbut himself
That Mr Hurlbut would insist that D.
H. Ball should pay 20 per cent on
this indebtedness and if Ball refused
to do so that he would withdraw from
the Case, and if the Court would permit
he would dismiss the bill -

Before Commencing the Cross examination of John H Ball Defendant Consents to waive his objections to the production of all notes Books and Vouchers, and all evidences in writing of the money dealings between the parties which were in his possession and Control at the time of the service, ^{upon the facts} him on the 9th inst to be under the order & Control and to abide the decree of the Court in this case and agrees to place the same in the hands of the Master herein

Interrogatory 1st Have you or not been the Chief Counselor, Advisor & Manager in getting up and carrying along this suit (Objected to)

Ans Daniel H Ball did ask my advice at the Commencement of this case and as I have had more experience in legal matters, he did intrust me the management of this case. I have taken no important step however without his Approval

Int 2 Did you as his Counsel^{or}, as advisor, help collect the facts and afterward embody them in an Original in this case. (Objected to)

Ans I did collect the facts & did Embody them in a bill, but not the bill filed in this case.

Int 3 Did you draw up a Bill in Chancery

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for the purpose of Commencing the proceedings in this case (Objected to)

Ans I did draw up a Bill for that purpose and showed the same to Mr Hurlbut

Int 4 Have you at any time advanced or paid any money to Counsel Witness or others to assist in carrying on this suit, if so state the amounts, times and persons to whom you have paid the same (Objected to)

Ans I have never paid or advanced any money to any person whatever nor have I agreed so to do, except that I delivered to D. A. Hurlbut Esq a retaining fee which was handed to me by D. H. Ball for that purpose

Int 5 Did D. H. Ball to your knowledge ever consult with Mr Hurlbut concerning the matters in this suit, if so state when & what times if any

Ans I cannot say of my own knowledge that he did consult Mr Hurlbut, for I never was present at any interview between them and only know of such interviews by his statements

Int 6 Do you mean to say that Mr Hurlbut made any such statements to you (Objected to)

Ans Mr Hurlbut has stated to me that he had an interview or interviews with Daniel H. Ball

Int 7 Have you been instrumental in procuring testimony or witnesses to be used in this case (Objected to)

Ans I did go to Mr Leonard at the request of R. H. Ball and found that the notes had not been assigned before maturity but have not procured any witnesses to be used in this case. Have

Int 8 Have you taken any pains to hunt after fact or circumstances relating to this case for the purpose of being used as a witness thereto, that you afterwards testify to the same

Ans I did seek to get the evidence of the non assignment of these notes before the commencement of this action. That I might be able to testify to the same.

Int 9 Who prepared and signed the papers marked Schedule "A" and also the notices to take depositions. (Objected to)

This witness prepared and signed both the papers at the request of R. H. Ball who was at ^{that} time present.

Int 10 Have you or not been employed during the past year in hunting up evidence and learning facts for the purpose of using the same in the prosecution or defence of suits and controversies pending between litigating parties in this State and elsewhere? (I refuse to

answer the question for it is impertinent and irrelevant) Question objected to by A F Randall Attorney for Complainant Defendant insists upon an answer to this question. The master does not require require the Witness to respond to this interrogatory

Int 11 At the time ^{at} that you called upon Mr Leonard in December 1858 or January 1859 State all the Conversation you had with Mr Leonard or in his presence and hearing relative to the subject matter of your Visit Give the language made use of by all parties then present

Ans Mr Leonard was present but a very short time and most of the Conversation was with his Agent Mr Lewis. I cannot state what part of the Conversation was with or in the presence of Mr Leonard

Int 12. At this time did you disclose to any party your Agency

Ans I told Mr Lewis that I came there at the request of Daniel H Bull

Int 13 When was the next time and where that you had the next Conversation with Mr Leonard Concerning these matters and who was present

Ans I do not think I had any Conversation with Mr Leonard in reference thereto

after that time until the interview
the 28th day of February A.D. 1859.

Int 14 When was the next time you had
Conversation with Mr Leonard
in reference to this in Controversy where
was it and who was present?

Ans It was I believe in Betts' office in Leonard's
office. Mr Leonard was present & a part
of the time I believe Mr Asa F. Powers
It was just before the Commencement of
this case

Int 15 What was said and done by you & Mr
Leonard at this time? ^{Ans} I proposed to Mr Leonard
to produce his notes against my brother and
ascertain the amount due and told him
that I was prepared to pay the amount that
was actually due him by my brother, Computing
the interest at a legal rate. He said, where
is your brother. I won't settle with you or words
to that effect. I then told him that my brother
calculated that he owed him not more
than six hundred dollars. That I was
then prepared to pay him that amount &
would do so if he would cancel the notes.
He declined, saying he would do no such
thing & I believe he said, he would lose
the whole first. I then left the office

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I saw him frequently during that day -
Int 16 At this same time did not Mr Leonard
tell you he would take first the actual
balance of money then due and owing to
him & ten per cent interest thereon or words
to that effect

Ans At that interview he did not, but positively
declined to act with me in the premises
That same day after the Commencement
of this suit Mr Leonard told me that
if I would come in his office he would
figure up the matter & take ten per cent -
But when I went to his Office he commenced
to figure up the interest at 10 per cent per
annum but compounded it at intervals of 30, 60
& 90 days to which I objected and refused to agree

Int 17 How many days and parts of days have
you spent in the service of your brother in
carrying on this suit from first to last
State it as near as you can. (Objected to)

Ans I came over to Belvidere 12 miles once
to Mr Leonard as I have sworn in Nov
or January again at the time of the Commence-
ment of this suit. I attended the Court
I believe two or three days, I have been here
since the tenth inst engaged in these depositions
I also spent an evening with my Brother in
arranging this case & drawing up a Bill.

Int 18 Have you now answered fully to the last

Interrogatory (to)

Ans To the best of my Recollection I have I may have done something more that I do not ^{now} think of, but think not.

Int 19 When you was at Mr Leonard's Office About one month ago, as testified to in Answer, 11th Interrogatory in whose Service Was you Engaged

Ans I went there for D N Ball at his request

Int 20 How much time did you spend on on that Occasion, and how far did you Come for that purpose

Ans I Came from House 12 miles. I was on my way ^{to} Chicago, on my own private business. I was in Mr Leonard's Office at that time perhaps an hour, may have been more, may have been less -

Int 21 Have you included ^{on} this Occasion in answer to the 17th Cross Interrogatory

Ans I have not, I did not think of it when that interrogatory was put.

Int 22 Was you Engaged in serving D N Ball in these matters, at the time all parties were parties were present at his dwelling house February last

Ans I was at the residence of my Brother at the time Mr Leonard drove up, and my Brother requested me to remain as he wished my advice in any arrangement he might

Concluded to make with Mr Leonard
Int 23 Did you Consent to remain & assist
him, if so State how long you were there.

Ans I did remain, and did advise him, was
there an hour, perhaps more, We staid to din-
ner

Int 24 Did you and your Brother expect Leonard
over there before he arrived that day?

Ans I did not expect him knew nothing that he
was expected there, and do not think my
Brother expected him.

Int 24 Will you prepare any memorandum on that
occasion for the purpose of using them in testif-
ing against Leonard in any Controversy which
might arise thereafter Between Ball & Leonard

Ans As I have before sworn I did make a
memorandum of the notes the dates & amounts
that D. H. Ball might be able to prove that
the notes were with Leonard at that time in
case he wished to do so.

Int 25 Have you kept that memorandum in your
possession since that time

Ans I have until during the taking of these
depositions I delivered to Mr Thompson Esq
Solicitor for a short time. I now have it

Int 27 Please Examine the notes herewith shown you
and numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12,
respectively and given by D. H. Ball & others
to M. G. Leonard to see if they are the same

that were in his possession at your
 Brothers residence on February 28th 1859 &
 State whether they compared substantially with
 your Memorandum made at that time -
 (Objected to)

Ans All the notes except a note No 11. Corresponds
 in date and Amount with my Memorandum
 The date of that One compares with my memo-
 randum but there is a slight difference in the
 Amount The note is for \$243.05 my Account
 is \$243.25 I presume it is my mistake. I
 think the notes are the same that I saw in
 Mr Leonard's possession on that occasion.
 Herewith Defendant places in Masters hands
 Twelve notes marked as above & for the
 inspection of all parties and to be used
 by the Court on the trial of this Cause.

Int 28 Have you ever said, to any one that the
 sworn Answer of M. G. Leonard, in this Case
 was a Correct Statement of the money trans-
 actions between Your Brother & Mr Leonard,
 as you believed or words to that Effect (Objected to)

Ans I have said that I believe that the
 Statement of Account filed as an
 Answer in this Case was in Effect
 Correct and I did believe so until
 Mr Leonard refused to produce the
 notes & Books of Account

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Int 29 Do you now wish to Examine any papers Books or memorandums in defendants papers in relating to the matters in Controversy if so which ones (Objected to)

Ans I am a Witness on the Stand, I would have been glad to have examined them yesterday, but to day is Saturday - it is now nearly noon, and I have not time to avail myself of them as a notice has been served to close this reference on next Monday noon

Int 30 Will you answer the last interrogatory as to whether you wish to make such examination of Books and papers &c or not at this time (Objected to)

Ans It is impossible me to Examine them so that my Brother Cas can derive any benefit therefrom on account of time. I do not wish to see them myself. I have no personal interest therein

Int 31 State the time of day at this time?

Ans I do not know the time of day, but it is nearly noon, about Eleven O'clock O'clock

Int 32 Will you now Show or prove to Mr Leonard that you had Authority to arrange & settle the matters in this Controversy with him (Objected to)

Ans I never Showed to Mr Leonard any written Authority in this matter, but I think my brother has informed Mr Leonard in my presence that

I was unwilling to act for R. H. Fall.
 Int 32. When did R. H. Fall so inform Mr Leonard
 and who else was present & where was it
 Ans I think my Brother so informed him at
 at my Brothers residence in February last
 Mr A. F. Pines was present at that inter-
 view during a part of the time whether he
 was there when that information was con-
 veyed I am unable to say

Int 34 Have you not been called upon by the
 defendant or his Counsel since that time to ~~show~~
 show your Authority or Agency in this matter
 and have declined or been unable so to do.

Ans Mr Leonard has not to the best of my
 recollection so required, but Mr Thompson
 Defts Solicitor made some such demand on
 the 10th inst I told him I had no written
 Authority but I was ready to prove I had such
 Authority if he wished -

Int 35 At the time you was at Mr Leonard's
 Office about One month ago, was not
 this same demand and request made of
 you by Mr Leonard or his Counsel - did you
 comply therewith -

Ans I do not recollect whether such demand was
 made at that time or not Mr Leonard his
 Counsel made many objections to producing
 the papers &c & quibbled in every way. I had
 possession of all my Brothers private papers

in the case which I proposed to produce if desired

Int 36 Did you offer to the inspection of any one at that time your authority to settle or arrange this suit, or did you have any such authority in writing with you (objected to)

Ans I did offer if Mr Leonard or his clerk would produce his notes &c. that I would produce the papers then in my possession and then we would calculate & figure up the amount due & save the expenses of litigation. The papers then in my possession were sufficient to have proven to Mr Leonard that I was ^{the} authorized Agent of R. H. Ball. I went there at the request of R. H. Ball. He was then in Belvidere and if they had any doubts of my authority I could have proved it conclusively. (Answer objected to)

Int 37 Now Please Answer my 36th interrogatory

Ans I have answered it as fully as I am capable. I did offer that all the papers then in my possession relating hereto should be opened to their inspection if Leonard or Lewis would produce Leonard's notes &c. That is as full an answer as I can give. I did not put any papers whatever in his possession because he absolutely refused to produce for my inspection his notes

He would not show to him that I had the money to pay any balance that might be found due. Mr Leonard, declined to produce his notes & I did not show him for his inspection any papers whatever.

Int 38 Have you now in your possession what you then considered your written authority if so please produce it (Objected to)

Ans Some of the papers I have & some of them I have not I find upon the Examination of the papers in my possession at this time that the papers that I have alluded to are not now with me.

Int 39 Did you come prepared to Belvidere at the time you was at Mr Leonard's Office about one month ago, or did you expect, or was you able to pay Mr Leonard what was his due from D. H. Ball at that time (Objected to)

Ans I did not have the money for that purpose at that time, & did not expect so to do.

Int 40 Did you ever tender to Mr Leonard for D. H. Ball a single Dollar in money (Objected to)

Ans. I went to his Office prepared pay him such amount as might be found his due and offered to pay him such amounts when the accounts was made out and he refused to account. I then offered to pay him \$600.00 which money I then had for that purpose.

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Int 41 Did you at this time offer to hand this money to Leonard except upon his Cancelling or delivering up all the evidences of indebtedness on the part of R. H. Ball

Ans I do not recollect the exact words spoken but my intentions were to pay the money only upon the ~~Condition~~ Cancelling or delivering up of the Evidence of indebtedness

Int 42 If, as you say you Considered that you had authority from R. H. Ball to arrange and settle the matters in this Controversy and if as you say you believe the sworn answer of Mr Leonard to have been correct in stating the amount due to Mr Leonard why did you not arrange with said Leonard, and stipulate that he might have a Deed for that amount at the time you were in his office about a month ago (Objected to)

Ans I said that it was my opinion that the Statement of the account was correct, But when Mr Leonard refused to show the notes Books of account &c so as to make me sure that the Statement was correct I was led to believe there was something wrong

Int 43 Do you know what amount of money your Brother has received of Mr Leonard, or what amount he has paid Mr Leonard during the last three years

Ans I have no personal knowledge of the amounts

posited ~~and~~ and know nothing there
of except from the Statements of the parties

Int 44 Have you ever heard Mr Leonard make
Any Statements Concerning those Amounts.

Ans. I have heard him talk about the amount
at different times. I do not know that he
ever made in my presence any full Statement
of the different Amounts paid and received.

Int 45 At the time spoken of in the ~~Sixteenth~~
Cross interrogatory, when you and Leonard
failed to agree, did he not propose to offer
to let your Attorney Mr Harburt Mr. Thompson
Judge Fuller or Judge Wilson or any two of
them figure up the notes & interest at legal
rates and abide their finding (Objected to)

Ans. I do not recollect that Mr Leonard did make such
proposition. He said he would figure up the
notes at a legal rate, when I went to his office
at his request to make such Calculation he
invariably failed to do so. I believe he said
he would leave the thing to Mr Harburt
but when I saw Mr Harburt he proposed
that Mr Leonard should receive interest
at 20 per Cent. - I did not consider
Compound interest legal. This was after the
Commencement of this suit.

Int 46 Did not your Counsel Mr Harburt
also inform you that he had seen and examined
all the notes vouchers and papers in this

Case in Leonard's case long before the Sept
Term of the Circuit Court of Boone County
AD 1839. (Objected to)

Ans^{un} He has not told me so he showed me a
sort of Statement in which he said the
interest was added at 20 per cent that he
had received either from ^{Thompson for the} Mr Leonard I don't
remember which This Statement was made in
Hurst's hands writing there was a note on the
margin showing that int^r at 20 per cent
was added into the account. I told him
my Brother would not pay 20 per cent.
(Answer objected to)

Int 47 Did not Hurst your Counsel in this
matter tell you that he had seen the notes
(Objected to)

Ans^{un} I do not think that he did tell me so - I
did not so understand him -

Int 48 Where did you understand from him he got
possession of the figures ^{that} he showed you I mean for
what sources. (Objected to)

Ans I understand from him that he ^{had} got the
figures from Mr Leonard or from Mr Thompson
from the latter I believe - I think he said
he had been shown a Statement of account
I will not be positive - I did not talk much
with him at that time

perused and know nothing there
of except from the Statements of the parties

Int 49. At the time in Leonard's Office about one
104. month ago, when you said you believed Leonard's
Accounts to be correct, did you not say
that books & papers &c in order that you
might convince your Brother & other parties
of its to say, to them that you know that
it it was (Objected to)

Answer I believe that morning my object was to
coax Leonard to produce the notes &c.

Sworn & subscribed before

me this 12th 1859

F B Hamlin

Master in Chancery

John H. Ball

The Hon Isaac G. Wilson Circuit
Judge of the 13th Judicial Circuit

The undersigned Master in Chancery
begs leave to report to your Honor that in
pursuance of an Order of this Court made
in this Cause I proceeded to take the Depo-
sitions of Witnesses on the part of the Com-
plainant and concluded the depositions
on or about 5 o'clock P.M. of the 12th
day of November A.D. 1859 and the fore-
going testimony is all the Evidence produced
before me on the part of the Complainant.

in this cause. as witness my hand
and seal this 14th day of November A.D. 1859

Received of Complainant
Seven Dollars in full of
my Certs in taking their
depositions F B Hamlin Master }

F B Hamlin *F B*
Master in Chancery

Now this 14th day of November A.D. 1859 I,
the undersigned would further report to this
Court that the Notes named in the Testimony
1st in Number, of John H Ball as above given
Constitute a part of this my report and are
numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 & 12 all of which
is respectfully submitted and contained in
this enclosed F B Hamlin Master

J
"Filed March 13. 1860.
D. W. Whitney, Clerk"

29
Int 41 Did you at this time offer to hand this money to Leonard except upon his Cancelling or delivering up all the evidences of indebtedness on the part of R. H. Ball

Ans I do not recollect the exact words spoken but my intentions were to pay the money only upon the Condition Cancelling or delivering up of the Evidence of indebtedness

Int 42 If as you say you Considered that you had authority from R. H. Ball to arrange and settle the matters in this Controversy and if as you say you believe the sworn answer of Mr Leonard to have been correct in stating the amount due to Mr Leonard why did you not arrange with said Leonard and stipulate that he might have a Decree for that amount at the time you were in his office about a month ago (Objected to)

Ans I said that it was my opinion that the Statement of the account was correct, But when Mr Leonard refused to show the notes Books of account &c so as to make me sure that the Statement was correct I was led to believe there was something wrong

Int 43 Do you know what amount of money your Brother has received of Mr Leonard, or what amount he has paid Mr Leonard during the last three years

Ans I have no personal knowledge of the amounts

Case in Leonard's case long before the Sept
Term of the Circuit Court of Boone County
AD 1839. (Objected to)

Ans. He has not told me so he showed me a
sort of Statement in which he said the
interest was added at 20 per cent that he
had received either from ^{Thompson for Mr} Leonard I don't
remember which This Statement was made in
Hurst's hands writing there was a note on the
margin showing that int^y at 20 per cent
was added into the account. I told him
my Brother would not pay 20 per cent.
(Answer objected to)

Int 47 Did not Hurst your Counsel in this
matter tell you that he had seen the notes
(Objected to)

Ans. I do not think that he did tell me so - I
did not so understand him.

Int 48 Where did you understand from him he got
possession of the figures, ^{that} he showed you I mean for
what sources. (Objected to)

Ans I understood from him that he ^{had} got the
figures from Mr Leonard or from Mr Thompson
from the latter I believe - I think he said
he had been shown a Statement of account
I will not be positive - I did not talk much
with him at that time

R.

Boone Co Circuit Court.

March Term A.D. 1860.

Amil H. Ball

M. G. Leonard

This day comes the said Complainant by his solicitor Wm. H. Herrington in open Court and moves the Court to vacate an Order heretofore entered in this case in this Court at the last term of this Court namely at the September Term A.D. 1859, and in support of said Motion the Complainant offers to the Court the affidavit of the said Complainant and of Amil H. Ball and further asks this Court to order the defendant Leonard to make as required by the prayer of the bill a full and extended Answer.

All of which is Respectfully
Submitted

Wm. Herrington
Counsel for Complainant

K.

"Filed March 13. 1860.

D. H. Whitney Clerk"

Noted ³² ~~Reel~~ Change venue

L

Daniel H. Ball

vs.

Marcellus G. Leonard

} Boone County Circuit Court
March Term A.D. 1860.
In Chancery

You Marcellus G. Leonard defendant herein, and W. Thompson defendant's Solicitor will take notice that on Tuesday, morning March 13th inst upon the opening of said Court or as soon thereafter as Counsel may be heard the said complainant by A. M. Harrington his Solicitor will make application for a change of venue in said cause to remove the same from this thirteenth Judicial Circuit, on account of the prejudice of the presiding Judge of said Court.

Respectfully March 12. 1860.

Daniel H. Ball.

" Filed March 13. 1860.

J. H. Whitney Clerk"

No. 12.

L
"Filed March 13-1860
S. Whitney, Clerk"

M.

Boone County Circuit Court.
 Daniel H. Bull } In Chancery
 vs. } March Term A.D. 1860.
 Marcellus G. Leonard

The above named Daniel H. Bull
 by ^{this} his petition shows to Hon. Isaac G. Wilson
 Presiding Judge of the Boone County Circuit
 Court in the 13th Judicial Circuit of the
 State of Illinois, that he fears that he will
 not receive a fair trial in said cause in said
 Circuit Court of Boone County in which said
 action is pending, on account that the Judge
 of said Circuit Court is prejudicial against him
 so that he cannot have a fair trial in said Cir-
 cuit ^{Court} of Boone County Your Petitioner therefore
 prays a change of venue, and that said Court
 shall award a change of venue in said action
 to some County where the cause complained
 of aforesaid does not exist. Your Petitioner
 states that a knowledge of the cause aforesaid
 came to his affiant on the 12th day of March A.D.
 1860, and that immediately after said knowledge
 your Petitioner caused a copy of the accompa-
 nying notice to be served on the defendant
 Leonard.

Daniel H. Bull

Daniel H. Bull whose name is sub-
 scribed to the foregoing petition being duly sworn
 states on oath that the foregoing petition has been
~~read~~ read to him and by him, and that he

(109.)

Knows the contents thereof, and that the statements therein contained are true in substance and fact, and that a copy of the notice hereto attached was duly served on the 12th day of March 1860. Subscribed and sworn to this 12th day of March 1860.

Daniel H. Bull

Subscribed and sworn to before me }
 this 13th day of March A.D. 1860 }
 J. H. Whitney, Clerk.

"Filed March 13th 1860

J. H. Whitney Clerk"

Bo. 25-

M.

N
H
H
N

Daniel H. Ball } Boone County Circuit Court
 vs } In Chancery
 Marcellus G. Leonard }

John H. Ball first having been duly sworn on oath says that ever since September or October A. D. 1869 at the request of and by Authority conferred upon him by said Complainant this deponent has acted for said Complainant in said Cause and has had the entire management and Control thereof. That having prepared a Bill of Complaint in said Cause being so Authorized and Empowered and at the request of said Complainant deponent applied to Stephen A. Hurlbut to put the facts and charges in said Bill of Complaint set up in his own language and handwriting and require by the prayer of said Bill of Complaint so to be drawn up by said Hurlbut that said Marcellus G. Leonard be required to answer all and singular the facts, averments and charges in said Bill of Complaint set up fully and perfectly and under oath. That said Bill of Complaint was so drawn by said Hurlbut, was filed in said Court and an injunction was issued in accordance with the prayer thereof that after the filing of said Bill of Complaint and before the September term of said Boone County

Circuit Court. Said, Heurlbut stated to this deponent that said Leonard would make a true statement of account as to the money dealings between the parties herein and would take in satisfaction of the notes said Leonard then held against said Complainant the principal sum and interest at two per centum per month. That this deponent at that time said to said Heurlbut in answer thereto that said Complainant would pay to said Leonard no more than legal interest, that said Complainant would abide such arrangement again after that time and before the Fall term of said Court said Heurlbut presented to this deponent a statement of accounts of said money dealings in the hand writings of said Heurlbut on the margin whereof there was a note stating that that statement included interest at twenty per centum per annum. Said Heurlbut also stated to this deponent at that time that said statement included interest at twenty per cent per annum, and said that he (said Heurlbut) desired said Complainant to pay the same and that said Defendant would agree to settle in that way. That this deponent then said to said Heurlbut that said Complainant would not pay twenty per cent per annum to said Leonard, and would not pay more than legal interest. That afterwards and during the

September term of the said Boone County
Circuit Court this deponent examined
the files in said Cause and discovered
an imperfect Statement of Account of the
dealings between said parties litigant with
a Stipulation Accompanying signed by said
Hurlbut as Solicitor for said Daniel H. Paul
Complainant herein accepting said imperfect
account in lieu of a full and formal an-
swer therein That as soon as such fact
was known to this deponent, and at the re-
quest of said Complainant this Affiant ap-
plied unto said Hurlbut that inasmuch
as said Complainant required the full and
oath answer of said defendant in order
to make out his Case and inasmuch as said
Stipulation had been made without the know-
ledge or Consent of said Complainant that said
Hurlbut give immediate notice to said
Defendant and to the Court, and demand
that said defendant file a full perfect and
formal answer as by the Bill of Complaint
in said Cause required That said
Hurlbut promised to this Affiant so to do
and said that he would give immediate
notice to the Defendant of such requirements
And further says this deponent that two
days thereafter and during said September
of said Court this Affiant asked said

116.
* if he had given the required notice
furnishing the desired answer has
yet been filed that said Hurd

Hurdant* in answer thereto said that he had
given such notice to said defendant and
that said defendant would file the required
answer but said he, they have not done
it yet and they had better be about it if
they wish to make any progress this term
Said Hurdant further said at that that time
to deponent that the Court was then and
would be until nearly if not quite to the close
of the term occupied with Criminal business and
that said Complainant and deponents could
safely go home and leave the matter to him
This deponent then said to said Hurdant
that said Complainant and said deponents
would go home but would return on Saturday
following That on Saturday the last day
of said September term of said Court in the
forenoon said Complainant and deponent were
again in attendance on said Court and
then learned that no answer had been filed in
said Cause but that said Cause had been
disposed of for that term by agreement of said
Hurdant & the defendant herein as shown by the
records & orders in said Court That this de-
ponent immediately thereupon applied to said
Hurdant and insisted that he should yet make
the necessary statements and explanation to said
Court and require that the order in said
made should be vacated and that said Leonard

should be required to file the full and formal answer by said Bill of Complaint. required, that said Harbut then promised to this deponent that he would do so, but that he failed so to do when again a little while before the adjournment of said Court this deponent again said to said Harbut that if he would not make said required explanation & statements to said Court and require the vacation of said order and require a full answer in said Cause that some other person would do so. That said Stephen A. Harbut there called the attention of said Court to said Cause and withdraw his appearance as Attorney from said Cause and has not since acted as Solicitor for Complainant herein. which withdrawal of said Harbut from said Cause took said Complainant by surprise - and that within five or ten minutes thereafter said Court adjourned for said Term, giving no time to procure proper Counsel in said Cause. This deponent further says that after the adjournment of said Court on the last day of said term W. Thompson defendant's Solicitor said that defendant was willing to do so and would show to deponent all of his Books of Account, notes & vouchers relating to the matters in Controversy in said Cause for the inspection of said deponent at any time said Deponent would please to examine the same that this deponent since

~~some~~ few days thereafter did apply to said
 Thompson and requested to be shown for
 his inspection said notes, Vouchers & Books of
 Account and that said Thompson went with
 this deponent to the Office of Marcellus G. Le-
 mond aforesaid in Belvidere for that purpose
 but the said Leonard then and there positively
 and absolutely refused to produce his said
 notes Books of Account & Vouchers or any part
 thereof. Alleging as an excuse for such refusal
 that he would not give said Complainant access
 to his papers vouchers &c to enable said Complainant
 to make up his Case He said further at that
 time I will not place a club in your hands
 to pound me with and that after having
 spent an hour or more endeavoring to persuade
 said Leonard to show said notes, Books of
 Account and Vouchers to deponent for deponent's
 inspection and being unable to get access thereto
 this deponent left said Leonard. And afterward
 upon that same day in a Conversation with
 said Thompson. said Thompson said to this depo-
 nent that there had been an agreement between
 said Thompson and said Harbut that if said Leonard
 would produce to him a full statement of the money trans-
 actions between said Leonard and said Daniel B. Ball
 said Harbut would insist that said Complainant
 should pay the same with interest at at twenty per
 centum per annum and if Complainant would

not do so that he the said Heartout would
withdraw from the case and if the Court would
allow, he would dismiss the said Bill of Complaint.

Wm. H. Ball

Subscribed and Sworn to before me, Clerk of
the Rowe County Circuit Court this 24th day of February
January A.D. 1860.

P. N. Wright, Clerk.

" Filed March 13, 1860

D. H. Whitney Clerk.

N.
"Filed March 13. 1860
D. H. Whitney Clerk"

Off^{ce} D. H. Ball

Q Boone County Circuit Court

Daniel H. Ball

vs

Marcellus E. Leonard

In Chancery

Daniel H. Ball the Complainant herein first having been duly sworn on oath says that having procured a Bill of Complaint to be drawn up he requested and authorized John H. Ball (deponent's brother) to employ Stephen A. Hurlbut to put said Bill in his hand writing and language to file such Bill when drawn and to have an injunction issued according to the prayer of said Bill. That ^{said} Bill of Complaint was drawn by said Hurlbut which is the bill of Complaint filed this case. And this deponent gave into John H. Ball the full and entire management of this case and authorized him to act for deponent herein That by the said Bill of Complaint the said Marcellus E. Leonard defendant herein was required to answer fully as to all ^{the} matters and things in said Bill of Complaint set up under oath That the said Stephen A. Hurlbut influenced by motives to deponent unknown as deponent has been informed and believes entered into an arrangement with W. Thompson Solicitor said Defendants Solicitor by the terms of which agreement said Thompson was to produce to said Hurlbut

a Statement of account of the money transactions between said Leonard, & said Deponent, and if this Deponent would not pay twenty per cent per annum on that Statement that said Harbutt would withdraw from the Case and dismiss the Bill - This Deponent further says that early in the last term of the Circuit Court of Boone County said Deponent learned that said Stephen A. Harbutt had stipulated with said Leonard that said Leonard should not be required to answer the said Bill of Complaint as fully as by said Bill required that such fact was first made known to this Deponent by said John H. Ball - That such agreement so made by said S. A. Harbutt was made without the knowledge or Consent of this Deponent and this Deponent as soon as such fact was made known to him directed said John H. Ball to say to said Harbutt that Deponent was dissatisfied with and would not abide by such Stipulation so made by said Harbutt and to request said Harbutt inasmuch as such agreement was made without the knowledge or Consent and against the wishes and contrary to the interest of this Deponent and without sufficient authority that he give immediate notice to the Defendant herein and to the said Court of such facts

and to require the Defendant to file
a good and sufficient answer under
oath as by the said Bill of Complaints
required. That this deponent has been in-
formed and believes that said John H.
Ball did make such statements and demand
to from said Hurlbut and that said Hurlbut
promised to make such facts known to said
Defendant and to require said Defendant
to answer fully & under oath to said Bill of
Complaints. That a few days thereafter du-
ring the session of said Court this Deponent
applied to said Hurlbut in person and asked
him the said Hurlbut if said Leonard
had yet filed the required full & perfect
answer. That said Hurlbut then and there
stated to this deponent that he the said
Hurlbut had given the defendant notice
that this deponent was not satisfied with
the arrangement made by said Hurlbut
and said Thompson releasing the defendant
from answering fully to said Bill of Complaints
that this deponent desired a full and
extended answer as by said Bill
required. And said Hurlbut further said
at that time and on that occasion that the
said Defendant had agreed to file the re-
quired full & perfect answer but that the
said answer had not yet at that time

been filed - And further says this Deponent
 that again as this deponent is informed
 and believes. said John H. Ball inquired of
 said Hurlbut during the said Fall Term of
 said Court and after the Conversation between
 this Deponent and said Hurlbut last herein
 stated - Whether said required full & perfect
 answer had been filed, and that said Hurlbut
 said that it had not but that he had given
 the Defendant notice, and said defendant
 had agreed to file the same - That Hurlbut
 further said to said John H. Ball at that
 time, that the defendant had so long neglected
 filing the answer and the Court had so much
 business that the Case could not possibly be
 reached before the last day of that term
 and probably not then. that deponent and
 said John H. Ball could go home and might
 come over to said Court at Belvidere on
 Saturday the last day of that term -
 That said John H. Ball and this deponent
 believing the statements of said Hurlbut and
 not doubting his sincerity did leave the
 said Court and did not return thereto
 until Saturday morning the last day of
 that term, That upon the arrival of this depo-
 nent at said Court this deponent learned
 that the said Case had been disposed of
 for that term in the absence of said deponent

and) that no sufficient answer had been filed
in said Cause, but that said Hurlbut had
agreed that the Proof should be taken & a
decree entered in said Cause on the 15th
day of November A.D. 1839 as if that term of
the said Court, that as this deponent is infor-
med and Verily believes said John H. Ball
at deponents request immediately thereupon ap-
plied to said Hurlbut and Expostulated with
him and Endeavored to induce him to make
the necessary Statement and explanation to said
Court and yet require that the said order
be vacated and that said Defendant should
be required to file the answer as by said
Bill of Complaint required that said Hurl-
but again at that time promised to do so
but neglected, and failed therein. That said
deponent believing said Hurlbut would make
such application and explanation to the
Court waited until this deponent feared
the Court would adjourn when said J. H.
Ball again at deponents request in the
Court Room in Belvidere in said County
in the presence but not in the hearing of this
deponent, desired said Hurlbut to make
the necessary explanation and application to
said Court and stated to said Hurlbut
that if he would not do so that the Statement
would be made by some other person and

relief asked from the Court. That said,
 Stephen A. Hurlbut then without the desire
 or Consent of this deponent and, without hav-
 ing given any notice of his intention to do
 the same did withdraw from said Cause and
 did seek to assist the defendant to have the
 injunction dissolved in this Cause thereby
 to allow the said defendant to procure judg-
 ments to be entered up against this deponent
 upon the twelve several notes in said Bill
 of Complaint described which notes at that
 time amounted to over Two thousand Dollars
 to the damage of this deponent as he verily be-
 lieves in the sum of thirteen thousand dollars
 or thereabouts And, this deponent further dis-
 tinctly & expressly states that he never authorize
 said Hurlbut to confer with said defendant
 or his solicitor in relation hereto or to stipulate
 or agree to release any of this deponent's legal
 or equitable rights in said Cause, or to waive
 a full and perfect answer in this Cause that
 the course or advice of said Hurlbut was
 never asked, or sought in said Cause by
 this deponent but that the plans were formed
 without his counsel or advice and he
 was only employed by this deponent to
 execute said plans and appear in said
 Court and manage the same under the
 direction of said John H. Ball.

And this deponent further says that he is unable to fully prove except from the full perfect and sworn answer of said Defendant the facts and charges in said Bill of Complaint contained, that said Leonardo does not set forth in the Condensed and imperfect Statement of Account shown as an answer in this cause how many notes if any he holds against against this deponent. How many notes of deponents if any he has assigned to other parties which deponent may now be liable. What if any thing was the consideration of each note. What are the payments thereon respectively. How many usurious notes have been paid and cancelled, which ones of said notes were given for ~~money~~ alone. Which for usury ~~money~~ and which for money alone. What are the rates of interest charged. How such interest was computed whether at simple or compound interest. How the payments made by this deponent upon said notes were applied. What was the actual amount of each payment endorsed on said notes when said endorsements do not show the amount, all of which facts and others in said Bill of Complaint set up can be shown by this deponent only by the full perfect and sworn answer of this said

defendant. And this deponent further on
 oath says that during the entire business
 transactions between said Leonard and this
 deponent the said Leonard has sought to
 destroy and cover up all evidence of their
 transactions. He has given to this deponent
 no receipt for moneys paid and refused
 and now refuses to produce the evidence
 of said business transactions which this depo-
 nent believes and has good reason to believe
 is in his possession. That this deponent believes
 that upon a full, true and perfect showing
 of their business transactions he does not owe
 unto said Leonard more than six hundred
 or seven hundred dollars at the utmost
 including interest at a legal rate and
 this deponent further says that John H. Ball
 has been since September A.D. 1858 fully author-
 ized to act for him in said matters between
 said Leonard and deponent, and this
 deponent has stated unto said Leonard
 frequently that said John H. Ball had
 such authority and any act or acts
 of said J. H. Ball for said deponent
 herein would be as valid and binding
 as if done with and by said deponent
 in person. And this deponent further says
 that from the facts and circumstances attending
 the management of said cause he only

believes that he has been deprived, and defrauded of his legal and Equitable rights and remedies by the acts and failures of said Hurlbut at the instigation of said Leonard. That since the September term of said Boone County Circuit Court of 1859 said Hurlbut has not acted as the Attorney or Solicitor of this deponent in said Cause and that on the last day of said term without the knowledge or Consent of deponent said Hurlbut withdrew from said Cause as this deponent alleges and believes in pursuance of an agreement between said Hurlbut and said Defendant corruptly made of by said Leonard for his said Leonard's benefit and in fraud of the rights of this deponent. This deponent says that relying upon said Hurlbut's statements to have said Order vacated, he was momentarily expecting said Hurlbut so to act in the premises when the Court ordered the Sheriff to adjourn said Court until Court in Course at which time John H. Ball in behalf of this affiant arose in said Court and explained to said Court that this affiant was dissatisfied with said arrangements made by said Hurlbut and in the name of this affiant protested against the same and this affiant states that the Court within five minutes thereafter adjourned.

Subscribed and sworn to before me on the 24th day of May 1860 } Daniel H. Ball
 ERNEST J. CLARK }

John Mc Ball & Oath States that on the
 24th day of January A.D. 1860 he saw A.M.
 Herrington the complainant present Solicitor
 hands this affidavit of Daniel Mc Ball and
 this affiant's affidavit of the same matter and
 containing the same facts to Wellington Thompson
 the defendant's Solicitor herein and that
 said Thompson either has had the actual
 possession or Control of said Affidavits from
 then until the present time. This affiant states
 further that he drew the foregoing affidavit of
 Daniel Mc Ball and knows the contents thereof
 and that the same is true in substance
 and facts.

C.

"Filed March 13-1860

D.H. Whitney Clerk."

A. P.

Know all Men by this Bond, that Daniel H. Bull as principal and William A. Miller as Security of the County of DeKalb and State of Illinois, are held and firmly bound unto Marcellus G. Leonard of the County of Boone in said State of Illinois in the penal sum of Two Thousand Five Hundred dollars to the payment whereof well and truly to be made we bind ourselves our heirs, Executors & Administrators severally ~~and~~ jointly and firmly by these presents - signed with our hands and sealed with our seals this thirteenth day of March A.D. 1860.

The condition of this obligation is such that whereas the above named Marcellus G. Leonard did on the thirteenth day of March instant recover in the Boone County Circuit Court as the March Term thereof for the year 1860, against the above bounden Daniel H. Bull a judgment or decree on the Chancery side of said Court for the sum of Two Hundred and eighty one Dollars & eighty nine cents, from which said judgment the said Daniel H. Bull has prayed an appeal to the Supreme Court of the State of Illinois -

Now therefore if the said Daniel H. Bull shall prosecute his said appeal with effect and shall pay said judgment as rendered in said Boone County Circuit Court, and interest that may become due thereon if the same shall be affirmed - and shall pay any judgment that may be rendered in said cause in said Supreme Court, and shall pay any and

All Costs and damages ^{for} which said Daniel O. Ball
shall become in consequence of this said appeal
then this obligation to be void otherwise to be
and remain of full force and effect.

Lycamore, Detrott Co. }

W. Mar. 13th 1860

Daniel O. Ball *Geo*

W. M. A. Miller *Geo*

#0.32

"Filed March 14. 1860.

D. Whitney, Clerk"

P

State of Illinois }
County of Boone }

Stephen H. Hurlbut being duly sworn
deposes and says, that he is an attorney at law and
Solicitor in Chancery residing and practicing his pro-
fession within said County of Boone.

That as such he was called on
by John H. Ball to put into shape a certain draft
of a Bill in Chancery prepared by said John H. Ball
for his brother Daniel H. Ball against Marcellus G.
Leonard praying Injunction and Account and
in all material particulars as to the stating part
of said Draft similar if not identical with the Bill
now on file. That this deponent did prepare
and file the Bill in this Cause, and obtained
Injunction.

That afterwards and prior to the
September Term of 1859 of the County Court of Boone
County, this deponent was requested by W. Thompson
Esq. Solicitor for the defendant M. G. Leonard, to relieve
him from the labor of preparing an elaborate
formal answer.

That this Deponent in the exercise of
a courtesy which he considered, due to a member of
the same honorable profession, accepted the ac-
count sworn to by Defendant in favor of his answer as
appears by the stipulation on file therewith. And this
Deponent in express terms says that no motive or
consideration entered into his said act except
to relieve said Thompson from unnecessary labor, &

127.
that no fraudulent or corrupt inducement so to do
was ever made to him by said Leonard or said
Thompson or any one else; that no man who knows
him would have offered such an inducement; And
that neither of the Gentlemen named are in his
belief capable of entertaining so bare a proposition.

That said M. G. Leonard presented to
this Deponent at different times as a basis of
Settlement two accounts - one stated at 20
per cent Interest, And one at 10 per cent.

That both these accounts were
shown to John H. Ball in reference to a Settlement.

That this Deponent has said to Mr. Fuller
& perhaps to Mr. Thompson, that complainant
Ball ought to be willing to pay twenty per cent and
thinks so yet.

And that this Deponent has further said
to both of these Gentlemen that if he became satis-
fied that complainant Ball was endeavoring to
use the Court of Chancery for mere delay and fraud
he would either insist on his allowing twenty per
cent interest or leave the case.

That this Deponent considered that
the answer of said Leonard together with the
production of his books, papers and vouchers
before the Master would be amply sufficient to
prevent any fraud on his client and to preserve
his interests. - And believes so still.

That he has no recollection of any

Conversation with Daniel H. Ball but once that
that was in relation to his fees. That the manage-
ment of the Cause was wholly with Daniel H.
Ball so far as this Deponent allows himself to be in-
structed or managed by any one.

That this Deponent informed said John
H. Ball that the Answer filed and the Books
and papers were a sufficient discovery - and
asked him if they had any testimony to contra-
dict the statements therein made, and was in-
formed and verily ^{now} believes that there was no
contradicting testimony.

That this deponent has no recollection
of making any promise or statement to John H.
Ball or any one else that he would compel a
full Answer.

That the only reason assigned by John
H. Ball for wanting an additional or formal
Answer was to carry the case over the September
Term.

That for this purpose and for the sake
of obtaining time to get in testimony if any could
be found he made the stipulation which appears
on file in the September Term and thereby con-
tinued the case over the Term without filing
affidavits in contradiction of the Answer &
in support of the injunction, which affidavits
were not to be had in as much as no witnesses
were then produced or as this Deponent is informed
have been since on that point.

That on Saturday the last day of the term
in the morning in opening court after such
stipulation had been made - Mr. ^{Charles} H. Ran-
dall a solicitor of said court told this Deponent
that the Ball wanted him to take charge of the case.

This Deponent informed Mr. Randall that
he (this Deponent) took charge of no man's business un-
less they were satisfied with his acts; were in open
court, and with draw from his appearance and
the above stipulation and left the case in
Mr. Randall's hands.

Mr. Randall moved to continue the
case & compel a full answer in form -
which motion the court denied and was about
to dismiss the Bill, when this Deponent suggested
that it would be simple justice to complain-
ant to allow the stipulation aforesaid to stand,
to which the parties assented.

That so much of the affidavit of Sam-
uel H. Ball as charges directly or indirectly any
collusion or fraud between this Deponent and
any one else, and especially with said Leonard &
Thompson, to his injury in the management
of said cause is wholly, wilfully and deliberately
false: - And that said Daniel H. Ball and
his coadjutor John H. Ball so far as the latter
ventures to confirm the former have deliberately
and wilfully attacked the professional and
personal character of this Deponent without any

As a mere means of ~~purp~~ postponing the payment of a sum of money which by their own Record they acknowledge due to defendant.

That this Deponent has done a large amount of very important business both for Daniel H. and John H. Ball and especially the latter - and that their own personal knowledge & experience has long since taught them that his fidelity and ability as an attorney are not by them to be questioned.

This Deponent further says that he has never been required to file his Affidavits in this case - and that so long as the case remained in this County where he resides he had made up his mind not to notice it - but as he has been informed that this case is about to go to the Supreme Court he does not wish that the Affidavits of John H. Ball and Daniel H. Ball shall go before the highest tribunal of his profession, uncontradicted.

Sworn and Subscribed
before me March 15. 1860
J. H. Whitney clerk

Stephen A. Henshaw

"Filed March 16. 1860

J. H. Whitney clerk"

A $\frac{102}{11}$

State of Illinois
Boone County

{ P. Wellington Thompson being duly sworn says that he is an Attorney & Solicitor residing in Boone County,

That he has been throughout the Solicitor and the only one employed for and representing the defendant Marcellus G. Leonard in this case.

That he is personally acquainted with Stephen A. Hurlbut and has read his Affidavit herewith filed, and that from his own personal knowledge so far as said Affidavit states the transactions and conversations between this Deponent and said Hurlbut in relation to said case and the conduct thereof, and the facts that occurred in Court on the Saturday of the September Term 1859, the statements in said Affidavit of said Hurlbut are true.

That so much of the Affidavit of said Daniel B. Ball as charges a corrupt agreement between this Deponent and said Hurlbut to the injury of said Ball is wholly and gratuitously false, and without any cause of application for the gross and insulting insinuations and charges therein contained.

That after Mr. Hurlbut abandoned the case at the September Term 1859, there was abundant opportunity for the Defendant Ball to disprove the answer of Leonard filed in this case, and that no such testimony has

been offered in this cause.

That the charges contained in said
Affidavit of Daniel H. Ball of complicity between
this Deponent and said Ball are wholly
gratuitous and false.

Sworn and Subscribed }
this 16 March 1860.
J. H. Whitney Clerk

W. Thompson

" Filed March 16. 1860

J. H. Whitney Clerk"

20 B. 20

no. 32.

State of Illinois }
 Boone County }

P. Marcellus G. Leonard being duly sworn on oath says that he is the defendant in the Case of Ball vs. Leonard.

That he is personally acquainted with Stephen C. Hurlbut who was the original Solicitor for the Complainant

That the allegations made by Daniel H. Ball in his affidavit that this deponent ever at any time made any arrangement or even proposed any arrangement to said Hurlbut by which said Hurlbut was to give up or surrender any rights of said Complainant in favor of this deponent is wholly false. That this deponent never attempted and never would attempt by himself or any agent to tamper with, or offer any inducement to said Hurlbut, which could possibly be imagined as a solicitation to perform an unworthy or unprofessional act.

That he never himself made nor authorized any one to make any arrangement, bargain, contract or other proposition for any action by said Hurlbut in said case in favor of this deponent other than this that he is informed that by arrangement between Mr. Hurlbut and Mr. Thompson the ^{sworn} ~~deponent~~ account of this deponent on file in this case was accepted in lieu of a formal answer - which arrangement was wholly personal to these gentlemen —

That this Deponent has never paid, pro-
mised to pay or thought of paying to said Thibodaux
any money, gratuity or favor for so doing.
M. G. Leonard

Sworn and Subscribed }
before me this 16 March
1860 —

J. A. Whitney Clerk

"Filed March 16. 1860.

J. A. Whitney Clerk.

6 09

1859, Nov. 1894.

Daniel H. Hall

vs.

Marcellus G. Leonard

Boone Cris. Court

Rule &c.

Compt. Court.

| | |
|--|----------------|
| Feb. M. 5. tak. Bond. 2 fil 45. Doc. 10. Apr. Sol. 15. Mot. for hij. 20. | 95 |
| Ord. Mot. at P. 20. Aft. 1 fil 15. Ord. hij. issue 20. Ord. Court. 20. | 75 |
| Ord. C. 20. M. & E. 30. M. & hij. fil 40. Sum. 1 fil 40. | 130 |
| Sheriff Jemison on hij 120. do. Sum. 120. | 240 |
| | <u>\$ 5,40</u> |

| | |
|--|----------------|
| Sept 7/59, Dec. 10. Mot. ref. M. 20. Ord. Mo. at 20. Ord. Ref. 20. | 10 |
| Ord. tak. Ord. 20. Ord. Ref. 20. Ent. Aft. ports 20. Ord. Deane back 20. | 80 |
| Ord. Ent. of 20. Ord. C. 20. M. 20. | 70 |
| | <u>\$ 2,20</u> |

| | |
|--|--------------|
| March 7/60 Doc. 10. fil. M. 5. fil. 3 ports 15 Mot. for late Cr. Sept 7/59 20. | 50 |
| Mot. at 20. & Sept 5, 20. Ent. & Sept 5 Deane 20. Aft. 1 fil 15. | 75 |
| Feb. Mo. Ch. ban. 5. Aft. Mo. Ch. ban. 20. Mo. at 20. & Sept 5 20. | 55 |
| Ord. keep 20. Mot. Aft. S. C. 20. Mot. at 20. Ord. Aft. G. 20. | 80 |
| Ord. Ent. Bond 20. Ord. M. & E. Sum. 20. Ord. to fil. 20. Ord. C. 20. | 80 |
| M. & E. 30. Exp. 20. Doc. fil. 15. Cent. L. 35. Ent. St. 20. & Oct. 25. | 125 |
| Aft. Bond & fil. 35. Mr. Hamilton's Fers. 700 D. by Compt. 7.00 | 55 |
| | <u>10,30</u> |

\$ 19,90

Defendant's Bill Costs

| | |
|---|-----|
| Chas. J. Sept 7/59, Mot. at. hij 20. Mot. ^{devised} at 20. Ent. do 20. M. & E. 30. | 90. |
|---|-----|

143. over

That this Deponent has never paid, promised to pay or thought of paying to said Miller any money, gratuity or favor for so doing.

M. G. Leonard

Sworn and Subscribed }
before me this 16 March

144, Sept. C. Prot. on appt. Sol - 15 \$ 90.
Month T/60 Mot. Dece. 20. Ord. Mot. at P. 20. Ord. Clerks 20. " 1,60.
Fil. Km. Dece. 93 Fil. Compt. but 5. 20. a/c 5. Ord. 4. 20. Ex. Dec 16 55. 1,75.
Ent. Shff. ret. & Sat. 25. Ord. C. 20. Mt. & C. 30. Cop. 20. Dec 16 55. 1,10
Cert. & L. 35. Ent. Shff. ret. & Sat. 25. 3 aft. & fil 45. 1,05

Total Sept to Oct \$ 5, 58

Total Oct. 25, 48.

D. H. Whitney, Clerk

Costs of Transcript

\$ 30. 25

Re. of Compt. April 5. 1860

On Transcript to Sup. Ct. } \$ 20. 00

due on R. P. 10 25

D. H. Whitney, Clerk.

P. postage on 17 53 - to for Cy \$ 1. 02

Daniel H Ball

vs
Marcellus G. Leonard

Bill & Injunction
In Chancery

State of Illinois
Boone County

I Daniel H. Whitney, Clerk
of the Circuit Court in & for said County do
hereby certify that the foregoing is a true
copy from the records of the said Circuit
Court in the above entitled cause; and that
the papers therunto attached, are true and
perfect copies of all the Original papers filed
in said cause and marked and designated
as follows to wit: The Bill "A" Injunction
"B" Summons "C" - Answer "D"
Stipulation "E" - Account "F" - Complaint "G"
Notice to "H" - Evidence before Master "I" - Notice
to Vacate order "K" - Notice Ch. Ven. "L"
Mot. Ch. Ven. "M" - Afft Jno H. Ball "N"
- Afft Daniel H. Ball "O" - Appeal Bond "P"
Afft J. A. Harburt "A" - Afft W. Thompson
"B" - Afft M. G. Leonard "C" -

Witness Daniel H. Whitney Clerk of the
Circuit Court for said County; at Belvidere
this 5th day of April A.D. 1860

Daniel H. Whitney, Clerk

146.
State of Illinois.

Supreme Court, Third Division.

Daniel H. [unclear],

Appellant, }

Marcellus G. Leonard, Appellee. } Boone.

Afterwards, to wit, at the April Term, A.D. 1860, of the said Supreme Court, comes the said Appellant, by J. Lyle Dickey, his attorney, and says that in the record, decree and proceedings aforesaid there is manifest error, in this:

1st. The court below erred in hearing the said cause without issue being formed.

2nd. The court below erred in hearing the said cause in vacation.

3rd. The court below erred in refusing to vacate the order of September Term, A.D. 1859, referring the cause to the Master.

4th. The court below erred in overruling the complainant's motion for a change of venue.

5th. The court below erred in rendering the said decree in the said cause.

The court erred in not granting the relief asked.

6th. The court erred in prematurely bringing said cause to a hearing.

And the said appellant prays that the decree aforesaid may be reversed, set aside, and altogether for naught held.

J. Lyle Dickey,
Atty. for appellant.

Ap. Term. 1860

305-

Ball }
vs } Appeal from Boone
Leonard }

It is hereby stipulated - That the record in the case is incorrect in the point following - viz

for change of venue
That in point of fact - the petition
affidavit (marked "M" & found on
pages 111 & 112) were presented to the
Court on the 13th of March 1860 -
before ~~the~~ ^{the Court had} declared the decree in
the case - and that, on the hearing
of this cause - the entry found
on the 8th page of the transcript
between the marks (x) & (y) -
shall be treated as though it
were entered on page 3 - at
the point marked (L3) ^{4th line from the} & not
entered on page 8 at all -
& this is to dispense with a certiorari
to correct the record - & the order for
continuance is to be set aside
& the Case stand for hearing at
this term -

April 24. 1860

W. J. Burges for appellee

J. L. Dickey for appellant

And the said Appellee by
W. J. Briggs his Attorney
Counselor says that in
the next proceedings
before a jury and then
is no more to be

W. J. Briggs
for Appellee
L. M. A. C.

W. H. Ball
M. E. Leonard

Transcript from Rome Civ. Cl.

305

Donnie H. Ball

no

MacArthur & Leonard

Direct April 1880

Admission

Clear